

CHAPTER 1

(HB 87)

AN ACT relating to reorganization.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

- (1) *The Tourism Development Finance Authority is created within the Tourism Development Cabinet. The authority shall consist of seven (7) members appointed by the Governor. The members of the authority shall serve without compensation but shall be entitled to reimbursement for their necessary expenses incurred in performing their duties. Of the members initially appointed to the authority, two (2) members shall be appointed for terms of one (1) year, three (3) members shall be appointed for terms of two (2) years, and two (2) members shall be appointed for terms of three (3) years. Thereafter, the members of the authority shall be appointed for terms of four (4) years.*
- (2) *The Governor shall appoint one (1) member as chairperson of the Tourism Development Finance Authority. The members of the authority may elect other officers as they deem necessary.*
- (3) *No member of the Tourism Development Finance Authority shall either directly or indirectly be a party to, or be in any manner interested in, any contract or agreement with the authority for any matter, cause, or thing that creates any liability or indebtedness against the authority.*
- (4) *The Tourism Development Finance Authority shall have the powers necessary to carry out the purposes of this section and Sections 2 to 7 and 8 of this Act and the Tourism Development Loan Program created by 2000 Ky. Acts ch. 549, Part IX, Section 47, including, but not limited to, the power to:*
 - (a) *Make and condition all loans from the Tourism Development Loan Program;*
 - (b) *Employ fiscal consultants, attorneys, appraisers, and other agents on behalf of the authority whom the authority deems necessary or convenient for the preparation and administration of agreements and documents necessary or incidental to any project. The fees for the services provided by persons employed on behalf of the authority shall be paid by the beneficiary of a loan under this program directly to the person providing consultation, advisory, legal, or other services; and*
 - (c) *Impose and collect fees and charges in connection with any transaction and provide for reasonable penalties for delinquent payment of fees and charges.*

Section 2. KRS 154.29-010 is amended to read as follows:

As used in KRS 139.536 and *Sections 2*~~[KRS 154.29-010]~~ *to 7 of this Act*~~[154.29-060]~~, unless the context clearly indicates otherwise:

- (1) "Agreement" means a tourism attraction agreement entered into, pursuant to *Section 6 of this Act*~~[KRS 154.29-050]~~, on behalf of the authority and an approved company on or before June 30, 2002, with respect to a tourism attraction project;
- (2) "Approved company" means any eligible company approved by the secretary of the Tourism Development Cabinet and the authority pursuant to *Section 6 of this Act*~~[KRS 154.29-050]~~ that is seeking to undertake a tourism attraction project;
- (3) "Approved costs" means:
 - (a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, and installation of a tourism attraction project;
 - (b) The costs of acquiring real property or rights in real property and any costs incidental thereto;
 - (c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of the acquisition, construction, equipping, and installation of a tourism attraction project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;
 - (d) All costs of architectural and engineering services, including, but not limited to: estimates, plans and specifications, preliminary investigations, and supervision of construction and installation, as well as for

- the performance of all the duties required by or consequent to the acquisition, construction, equipping, and installation of a tourism attraction project;
- (e) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, and installation of a tourism attraction project;
 - (f) All costs required for the installation of utilities, including but not limited to: water, sewer, sewer treatment, gas, electricity and communications, and including off-site construction of the facilities paid for by the approved company; and
 - (g) All other costs comparable with those described in this subsection;
- (4) "Authority" means the Kentucky ~~Tourism~~ ~~Economic~~ Development Finance Authority as set forth in ***Section 1 of this Act*** ~~[KRS 154.29-010]~~;
 - (5) "Crafts and products center" means a facility primarily devoted to the display, promotion, and sale of Kentucky products, and at which a minimum of eighty percent (80%) of the sales occurring at the facility are of Kentucky arts, crafts, or agricultural products;
 - (6) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity operating or intending to operate a tourism attraction project, whether owned or leased, within the Commonwealth that meets the standards promulgated by the secretary of the Tourism Development Cabinet pursuant to ***Section 4 of this Act*** ~~[KRS 154.29-030]~~. An eligible company may operate or intend to operate directly or indirectly through a lessee;
 - (7) "Entertainment destination center" means a facility containing a minimum of two hundred thousand (200,000) square feet of building space adjacent or complementary to an existing tourism attraction, an approved tourism attraction project, or a major convention facility, and which provides a variety of entertainment and leisure options that contain at least one (1) major themed restaurant and at least three (3) additional entertainment venues, including, but not limited to, live entertainment, multiplex theaters, large format theaters, motion simulators, family entertainment centers, concert halls, virtual reality or other interactive games, museums, exhibitions, or other cultural and leisure time activities. Entertainment and food and drink options shall occupy a minimum of sixty percent (60%) of total gross area available for lease, and other retail stores shall occupy no more than forty percent (40%) of the total gross area available for lease;
 - (8) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under KRS 139.536 and ***Sections 2*** ~~[KRS 154.29-010]~~ to ***7 of this Act*** ~~[154.29-060]~~;
 - (9) "Inducements" means the Kentucky sales tax refund as prescribed in KRS 139.536;
 - (10) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements of KRS 139.536 and ***Sections 2*** ~~[KRS 154.29-010]~~ to ***7 of this Act*** ~~[154.29-060]~~;
 - (11) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, or any board, commission, institution, or division exercising any function of the state that is not an independent municipal corporation or political subdivision;
 - (12) "Tourism attraction" means a cultural or historical site, a recreation or entertainment facility, an area of natural phenomenon or scenic beauty, a Kentucky crafts and products center, or an entertainment destination center. A tourism attraction shall not include any of the following:
 - (a) Lodging facilities, unless:
 - 1. The facilities constitute a portion of a tourism attraction project and represent less than fifty percent (50%) of the total approved cost of the tourism attraction project, or the facilities are to be located on recreational property owned or leased by the Commonwealth or federal government and the facilities have received prior approval from the appropriate state or federal agency; or
 - 2. The facilities involve the restoration or rehabilitation of a structure that is listed individually in the National Register of Historic Places or are located in a National Register Historic District and certified by the Kentucky Heritage Council as contributing to the historic significance of the district, and the rehabilitation or restoration project has been approved in advance by the Kentucky Heritage Council;

- (b) Facilities that are primarily devoted to the retail sale of goods, other than an entertainment destination center, a Kentucky crafts and products center, or a tourism attraction where the sale of goods is a secondary and subordinate component of the attraction; and
 - (c) Recreational facilities that do not serve as a likely destination where individuals who are not residents of the Commonwealth would remain overnight in commercial lodging at or near the tourism attraction project; and
- (13) "Tourism attraction project" or "project" means the acquisition, including the acquisition of real estate by a leasehold interest with a minimum term of ten (10) years, construction, and equipping of a tourism attraction; the construction, and installation of improvements to facilities necessary or desirable for the acquisition, construction, and installation of a tourism attraction, including but not limited to surveys; installation of utilities, which may include water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are to be used to improve the economic situation of the approved company in a manner that shall allow the approved company to attract persons.

Section 3. KRS 154.29-020 is repealed, reenacted as a new section of KRS Chapter 148 and amended to read as follows:

The General Assembly finds and declares that the general welfare and material well-being of the citizens of the Commonwealth depend in large measure upon the development of tourism in the Commonwealth, and that it is in the best interest of the Commonwealth to induce the creation of new or the expansion of existing tourism attractions within the Commonwealth in order to advance the public purposes of relieving unemployment by preserving and creating jobs that would not exist if not for the inducements to be offered by the authority to approved companies, and by preserving and creating sources of tax revenues for the support of public services provided by the Commonwealth; and that the authority prescribed by KRS 139.536 and *Sections 2[KRS 154.29-010] to 7 of this Act[154.29-060]*, and the purposes to be accomplished under the provisions of KRS 139.536 and *Sections 2[KRS 154.29-010] to 7 of this Act[154.29-060]*, are proper governmental and public purposes for which public moneys may be expended; and that the inducement of the creation or expansion of tourism attraction projects is of paramount importance mandating that the provisions of KRS 139.536 and *Sections 2[KRS 154.29-010] to 7 of this Act[154.29-060]* be liberally construed and applied in order to advance public purposes.

Section 4. KRS 154.29-030 is repealed, reenacted as a new section of KRS Chapter 148 and amended to read as follows:

- (1) The secretary of the Tourism Development Cabinet shall establish standards for the making of applications for inducements and the recommendation to the authority of eligible companies and their tourism attraction projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.
- (2) The secretary of the Tourism Development Cabinet shall consult with the authority when establishing standards to ensure that standards established pursuant to subsection (1) of this section and *Section 5(1) of this Act[KRS 154.29-040(1)]* do not conflict.
- (3) With respect to each eligible company making an application to the secretary of the Tourism Development Cabinet for inducements, and with respect to the tourism attraction project described in the application, the secretary of the Tourism Development Cabinet shall make inquiries and request materials of the applicant that shall include, but not be limited to, marketing plans for the project that target individuals who are not residents of the Commonwealth; a description and location of the project; capital and other anticipated expenditures for the project that indicate that the total cost of the project shall exceed one million dollars (\$1,000,000) and the anticipated sources of funding therefor; the anticipated employment and wages to be paid at the project; business plans which indicate the average number of days in a year in which the project will be in operation and open to the public; and the anticipated revenues and expenses generated by the project. If the tourism attraction project is an entertainment destination center, the sales tax refund shall be dedicated to a public infrastructure purpose that shall relate to the tourism attraction project and shall be approved by the secretary of the Tourism Development Cabinet. The applicant shall submit the public infrastructure purpose with its application. Based upon a review of these materials, if the secretary of the Tourism Development Cabinet determines that the eligible company and the tourism attraction project may reasonably satisfy the criteria for final approval in subsection (4) of this section, then the secretary of the Tourism Development Cabinet may submit a written request to the authority requesting that the authority consider a preliminary approval of the eligible company and the tourism attraction project.

- (4) After receiving a preliminary approval by the authority, the secretary of the Tourism Development Cabinet shall engage the services of a competent consulting firm to analyze the data made available by the eligible company and to collect and analyze additional information necessary to determine that, in the independent judgment of the consultant, the tourism attraction project:
 - (a) Shall attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth;
 - (b) Shall have costs in excess of one million dollars (\$1,000,000);
 - (c) Shall have a significant and positive economic impact on the Commonwealth considering, among other factors, the extent to which the tourism attraction project will compete directly with existing tourism attractions in the Commonwealth and the amount by which increased tax revenues from the tourism attraction project will exceed the credit given to the approved company;
 - (d) Shall produce sufficient revenues and public demand to be operating and open to the public for a minimum of one hundred (100) days per year; and
 - (e) Shall not adversely affect existing employment in the Commonwealth.
- (5) The eligible company shall pay for the cost of the consultant's report and shall cooperate with the consultant and provide all of the data that the consultant deems necessary to make its determination under subsection (4) of this section.
- (6) After a review of relevant materials, the consultant's report, and completion of other inquiries, the secretary of the Tourism Development Cabinet shall, by written notification to the authority, provide a recommendation to the authority regarding final approval of the tourism attraction project.

Section 5. KRS 154.29-040 is repealed, reenacted as a new section of KRS Chapter 148 and amended to read as follows:

- (1) The authority shall establish standards for preliminary approval and final approval of eligible companies and their projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.
- (2) The authority shall consult with the secretary of the Tourism Development Cabinet when establishing standards to ensure that standards established pursuant to **Section 4(1) of this Act**~~[KRS 154.29-030(1)]~~ and subsection (1) of this section do not conflict.
- (3) At the written request of the secretary of the Tourism Development Cabinet, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and preliminarily authorizing the undertaking of the tourism attraction project.
- (4) After the adoption of the authority's preliminary approval, an agent designated by the Tourism Development Cabinet shall hold at least one (1) public hearing to solicit public comments regarding the designation of an eligible company as a preliminarily approved company and the preliminary authorization for the undertaking of a tourism attraction project. Notice of the public hearing shall be given in accordance with KRS Chapter 424.
- (5) The authority shall review the report of the consultant prepared pursuant to **Section 4(4) of this Act**~~[KRS 154.29-030(4)]~~, the recommendation of the secretary of the Tourism Development Cabinet, the report prepared by the agent documenting all comments, both written and oral, received at the public hearing required by subsection (4) of this section, and other information that has been made available to the authority in order to assist the authority in determining whether the tourism attraction project will further the purposes of KRS 139.536 and **Sections 2**~~[KRS 154.29-010]~~ to **7 of this Act**~~[154.29-060]~~.
- (6) The criteria for final approval of eligible companies and tourism attraction projects shall include, but not be limited to, the criteria set forth in **Section 4(4) of this Act**~~[KRS 154.29-030(4)]~~.
- (7) After a review of the consultant's report, the recommendation of the secretary of the Tourism Development Cabinet and other information made available to the authority, the authority, by resolution, may give its final approval to the eligible company's application for a tourism attraction project and may grant to the eligible company the status of an approved company. The decision reached by the authority shall be final and no appeal shall be granted.
- (8) All meetings of the authority shall be held in accordance with KRS 61.805 to 61.850. The authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

Section 6. KRS 154.29-050 is repealed, reenacted as a new section of KRS Chapter 148 and amended to read as follows:

- (1) The authority, upon adoption of its final approval, may enter into with any approved company an agreement with respect to its tourism attraction project. The terms and provisions of each agreement shall include, but not be limited to:
 - (a) The amount of approved costs, which shall be determined by negotiations between the authority and the approved company;
 - (b) A date certain by which the approved company shall have completed the tourism attraction project. Upon request from any approved company that has received final approval prior to or after July 15, 2000, the authority shall grant an extension or change, which in no event shall exceed three (3) years from the date of final approval, to the completion date as specified in the agreement of an approved company. Within three (3) months of the completion date, the approved company shall document the actual cost of the project through a certification of the costs to be provided by an independent certified public accountant acceptable to the authority; and
 - (c) The following provisions:
 1. The term shall be ten (10) years from the later of:
 - a. The date of the final approval of the project; or
 - b. The completion date specified in the agreement, if this completion date is within three (3) years of the date of the final approval of the project;
 2. Within forty-five (45) days after the end of each fiscal year of the approved company, during the term of the agreement, the approved company shall supply the authority with such reports and certifications as the authority may request demonstrating to the satisfaction of the authority that the approved company is in compliance with the provisions of KRS 139.536 and **Sections 2 of this Act** ~~KRS 154.29-010~~ to **7 of this Act** ~~KRS 154.29-060~~. Based upon a review of these materials and other documents that may be made available, the authority shall then certify to the Revenue Cabinet that the approved company is in compliance with this section; and
 3. The approved company shall not receive a sales tax refund as prescribed by KRS 139.536 with respect to any fiscal year if:
 - a. In any year following the fourth year of the agreement, the tourism attraction project fails to attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth; or
 - b. In any year following the first year of the agreement, the tourism attraction project is not operating and open to the public for at least one hundred (100) days.
- (2) The agreement shall not be transferable or assignable by the approved company without the written consent of the authority.
- (3) In consideration of the execution of the agreement as defined in **Section 2 of this Act** ~~KRS 154.29-010~~ and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in **Section 2 of this Act** ~~KRS 154.29-010~~, excluding its lessees, may be granted a sales tax refund under KRS 139.536 from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in **Section 2 of this Act** ~~KRS 154.29-010~~.

Section 7. KRS 154.29-060 is repealed, reenacted as a new section of KRS Chapter 148 and amended to read as follows:

KRS 139.536 and **Sections 2 of this Act** ~~KRS 154.29-010~~ to **7 of this Act** ~~KRS 154.29-060~~ shall be known as the Kentucky Tourism Development Act.

Section 8. KRS 139.536 is amended to read as follows:

- (1) In consideration of the execution of the agreement as defined in **Section 2 of this Act** ~~KRS 154.29-010~~ and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in **Section 2 of this Act** ~~KRS 154.29-010~~, excluding its lessees, may be granted a sales tax refund from the Kentucky sales

tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in **Section 2 of this Act**~~[KRS 154.29-010]~~. The approved company shall have no obligation to refund or otherwise return any amount of this sales tax refund to the persons from whom the sales tax was collected. The term of the agreement granting the sales tax refund shall be ten (10) years, and this time period shall commence on the later of:

- (a) The final approval for purposes of the inducements; or
 - (b) The completion date specified in the agreement.
- (2) Any sales tax collected by an approved company as defined in **Section 2 of this Act**~~[KRS 154.29-010]~~ on sales transacted after final approval but prior to the commencement of the term of the agreement, including any approved company that has received final approval prior to July 15, 2000, shall be refundable as if collected after the commencement of the term and applied to the approved company's first fiscal year's refund after activation of the term and without changing the term.
 - (3) The total sales tax refund allowed to the approved company over the term of the agreement in subsection (1) of this section shall be equal to the lesser of the total amount of the sales tax liability of the approved company and its lessees or twenty-five percent (25%) of the approved costs. The sales tax refund shall accrue over the term of the agreement in an annual amount equal to two and one-half percent (2.5%) of the approved cost. Notwithstanding the foregoing two and one-half percent (2.5%) limitation, any unused inducements as set forth in **Section 2(9) of this Act**~~[KRS 154.29-010(9)]~~ from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire twenty-five percent (25%) of the approved costs have been received through sales tax refunds. By October 1 of each year the Revenue Cabinet shall certify to the authority and the secretary of the Tourism Development Cabinet for the preceding fiscal year for all approved companies for which sales tax returns were filed with respect to a tourism attraction project, the sales tax liability of the approved companies receiving inducements under this section and **Sections 2**~~[KRS 154.29-010]~~ **to 7 of this Act**~~[154.29-060]~~, and their lessees, and the amount of the sales tax refunds issued pursuant to subsection (1) of this section.
 - (4) Interest shall not be allowed or paid on any refund made under the provisions of this section.
 - (5) The Revenue Cabinet may promulgate administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of this section and **Sections 2**~~[KRS 154.29-010]~~ **to 7 of this Act**~~[154.29-060]~~.

Section 9. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.

- (a) Treasurer.
- 6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
- 7. Superintendent of Public Instruction.
- 8. Auditor of Public Accounts.
- II. Program cabinets headed by appointed officers:
 - 1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
 - 2. Education, Arts, and Humanities Cabinet:
 - (a) Department of Education.
 - (1) Kentucky Board of Education.
 - (2) Education Professional Standards Board.
 - (b) Department for Libraries and Archives.
 - (c) Kentucky Arts Council.
 - (d) Kentucky Educational Television.
 - (e) Kentucky Historical Society.
 - (f) Kentucky Teachers' Retirement System Board of Trustees.
 - (g) Kentucky Center for the Arts.
 - (h) Kentucky Craft Marketing Program.
 - (i) Kentucky Commission on the Deaf and Hard of Hearing.
 - (j) Governor's Scholars Program.
 - (k) Governor's School for the Arts.
 - (l) Operations and Development Office.
 - (m) Kentucky Heritage Council.
 - (n) Kentucky African-American Heritage Commission.
 - (o) Board of Directors for the Center for School Safety.
 - 3. Natural Resources and Environmental Protection Cabinet:
 - Legislative Research Commission PDF Version

- (a) Environmental Quality Commission.
 - (b) Kentucky Nature Preserves Commission.
 - (c) Department for Environmental Protection.
 - (d) Department for Natural Resources.
 - (e) Department for Surface Mining Reclamation and Enforcement.
 - (f) Office of Legal Services.
 - (g) Office of Information Services.
 - (h) Office of Inspector General.
4. Transportation Cabinet:
- (a) Department of Highways.
 - 1. Office of Program Planning and Management.
 - 2. Office of Project Development.
 - 3. Office of Construction and Operations.
 - 4. Office of Intermodal Programs.
 - 5. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Fiscal Management.
 - (e) Department of Rural and Municipal Aid.
 - (f) Department of Human Resources Management.
 - (g) Office of the Secretary.
 - (h) Office of General Counsel and Legislative Affairs.
 - (i) Office of Public Affairs.
 - (j) Office of Transportation Delivery.
 - (k) Office of Minority Affairs.
 - (l) Office of Policy and Budget.
5. Cabinet for Economic Development:
- (a) Department of Administration and Support.
 - (b) Department for Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department of Community Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
- (a) Public Service Commission.
 - (b) Department of Insurance.
 - (c) Department of Housing, Buildings and Construction.
 - (d) Department of Financial Institutions.

- (e) Department of Mines and Minerals.
 - (f) Department of Public Advocacy.
 - (g) Department of Alcoholic Beverage Control.
 - (h) Kentucky Racing Commission.
 - (i) Board of Claims.
 - (j) Crime Victims Compensation Board.
 - (k) Kentucky Board of Tax Appeals.
 - (l) Backside Improvement Commission.
 - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
 - (n) Department of Charitable Gaming.
7. Cabinet for Families and Children:
- (a) Department for Community Based Services.
 - (b) Department for Disability Determination Services.
 - (c) Public Assistance Appeals Board.
 - (d) Office of the Secretary.
 - (1) Kentucky Commission on Community Volunteerism and Service.
 - (e) Office of the General Counsel.
 - (f) Office of Program Support.
 - (g) Office of Family Resource and Youth Services Centers.
 - (h) Office of Technology Services.
 - (i) Office of the Ombudsman.
 - (j) Office of Performance Enhancement.
8. Cabinet for Health Services.
- (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission on Children with Special Health Care Needs.
 - (e) Office of Certificate of Need.
 - (f) Office of the Secretary.
 - (g) Office of the General Counsel.
 - (h) Office of Program Support.
 - (i) Office of the Inspector General.
 - (j) Office of Aging Services.
9. Finance and Administration Cabinet:
- (a) Office of Legal and Legislative Services.
 - (b) Office of Management and Budget.
 - (c) Office of Financial Management.
 - (d) Office of the Controller.

- (e) Department for Administration.
 - (f) Department of Facilities Management.
 - (g) State Property and Buildings Commission.
 - (h) Kentucky Pollution Abatement Authority.
 - (i) Kentucky Savings Bond Authority.
 - (j) Deferred Compensation Systems.
 - (k) Office of Equal Employment Opportunity Contract Compliance.
 - (l) Office of Capital Plaza Operations.
 - (m) County Officials Compensation Board.
 - (n) Kentucky Employees Retirement Systems.
 - (o) Commonwealth Credit Union.
 - (p) State Investment Commission.
 - (q) Kentucky Housing Corporation.
 - (r) Governmental Services Center.
 - (s) Kentucky Local Correctional Facilities Construction Authority.
 - (t) Kentucky Turnpike Authority.
 - (u) Historic Properties Advisory Commission.
 - (v) Kentucky Kare Health Insurance Authority.
 - (w) Kentucky Tobacco Settlement Trust Corporation.
10. Labor Cabinet:
- (a) Department of Workplace Standards.
 - (b) Department of Workers' Claims.
 - (c) Kentucky Labor-Management Advisory Council.
 - (d) Occupational Safety and Health Standards Board.
 - (e) Prevailing Wage Review Board.
 - (f) Workers' Compensation Board.
 - (g) Kentucky Employees Insurance Association.
 - (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.
 - (j) Kentucky Occupational Safety and Health Review Commission.
 - (k) Office of Administrative Services.
 - (l) Office of Labor-Management Relations and Mediation.
 - (m) Office of General Counsel.
 - (n) Workers' Compensation Funding Commission.
 - (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
 - (b) Department of Tax Administration.

- (c) Office of Financial and Administrative Services.
 - (d) Department of Law.
 - (e) Department of Information Technology.
 - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
- (a) Department of Travel.
 - (b) Department of Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (d) Kentucky Horse Park Commission.
 - (e) State Fair Board.
 - (f) Office of Administrative Services.
 - (g) Office of General Counsel.
 - (h) *Tourism Development Finance Authority.***
13. Cabinet for Workforce Development:
- (a) Department for Adult Education and Literacy.
 - (b) Department for Technical Education.
 - (c) Department of Vocational Rehabilitation.
 - (d) Department for the Blind.
 - (e) Department for Employment Services.
 - (f) State Board for Adult and Technical Education.
 - (g) The State Board for Proprietary Education.
 - (h) The Foundation for Adult Education.
 - (i) Office of Training and Reemployment.
 - (j) Office of General Counsel.
 - (k) Office of Communication Services.
 - (l) Office of Development and Industry Relations.
 - (m) Office of Workforce Analysis and Research.
 - (n) Office for Administrative Services.
 - (o) Office for Policy and Budget.
 - (p) Office of Personnel Services.
 - (q) Unemployment Insurance Commission.
14. Personnel Cabinet:
- (a) Office of Administrative and Legal Services.
 - (b) Department for Personnel Administration.
 - (c) Department for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Kentucky Kare.
 - (f) Division of Performance Management.

- (g) Division of Employee Records.
- (h) Division of Staffing Services.
- (i) Division of Classification and Compensation.
- (j) Division of Employee Benefits.
- (k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Council on Postsecondary Education.
- 3. Department for Local Government.
- 4. Kentucky Commission on Human Rights.
- 5. Kentucky Commission on Women.
- 6. Department of Veterans' Affairs.
- 7. Kentucky Commission on Military Affairs.
- 8. The Governor's Office for Technology.
- 9. Commission on Small Business Advocacy.

Section 10. KRS 148.522 is amended to read as follows:

- (1) The Tourism Development Cabinet shall consist of the Office of the Secretary, the Office of General Counsel, the Office of Administrative Services, the Department of Travel, the Department of Parks, ***the Tourism Development Finance Authority***, and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet subject to the provisions of KRS Chapter 12.
- (2) The Tourism Development Cabinet shall encourage the development of the film industry in Kentucky and shall perform all film promotional functions.
- (3) The Office of General Counsel shall be headed by a general counsel appointed by the secretary pursuant to KRS 12.210, shall provide legal services for the cabinet, and shall be directly responsible to the secretary.
- (4) The Department of Travel shall be headed by a commissioner appointed by the Governor pursuant to the provisions of KRS 12.040. The commissioner shall have the authority and responsibility for the promotion, development, and support services for the tourism industry within the Commonwealth.
- (5) The Divisions of Tourism Services and Marketing and Advertising Services are created within the Department of Travel. Each division shall be headed by a division director who shall be appointed by the commissioner of the department pursuant to the provisions of KRS 12.050.

Section 11. The General Assembly confirms Economic Development Partnership Reorganization Resolution No. 00-2, dated October 27, 2000, and the Governor's Executive Order 2000-1503, dated November 28, 2000, relating to the creation of the Tourism Development Finance Authority in the Tourism Cabinet and the transfer of functions, duties, and records relating to the Kentucky Tourism Development Act from the Economic Development Finance Authority to the Tourism Development Finance Authority to the extent that the resolution and order are not otherwise confirmed by this Act.

Approved March 8, 2001

CHAPTER 2

(HJR 19)

A JOINT RESOLUTION naming the "Colonel Monfurd K. Peyton Memorial Bridge" in Morgan County.

WHEREAS, Monfurd K. Peyton was born April 26, 1910, at Cannel City in Morgan County, Kentucky; and

WHEREAS, Monfurd K. Peyton married Florence Mae Paytes on September 17, 1940; and

WHEREAS, Morgan County's native son Monfurd K. Peyton joined the United States Marine Corps in 1932, and, after being commissioned an officer, transferred to the Marine Air Corps; and

WHEREAS, Monfurd K. Peyton was stationed at Guadalcanal, Solomon Islands in the South Pacific during World War II where he gallantly served as a Marine fighter pilot in the Pacific Theater of Operations; and

WHEREAS, while returning from an air raid mission, Monfurd K. Peyton and three other pilots spotted a large number of enemy bombers and fighter planes headed for an attack on the American airfield at Guadalcanal; and

WHEREAS, Monfurd K. Peyton, a major at the time, was the flight leader and led his fellow pilots in Marine Corsair fighters in an attack on the enemy formation; and

WHEREAS, one American plane was damaged and returned to Guadalcanal and two of the remaining American planes were shot down, but Monfurd K. Peyton continued alone to attack the enemy until he was wounded; and

WHEREAS, during the dangerous dog fight, Monfurd K. Peyton shot down three enemy fighter planes, causing the remainder of the enemy strike force to break off the engagement and turn toward their home base; and

WHEREAS, Monfurd K. Peyton's efforts resulted in him being awarded the Distinguished Flying Cross for his bravery in battle; and

WHEREAS, Monfurd K. Peyton continued to serve his country during the Korean War and eventually retired with the rank of Colonel from the United States Marine Corps; and

WHEREAS, Colonel Monfurd K. Peyton and his beloved wife Florence Mae had four children, Monfurd Kenneth Jr., Cheryl Jane, Kathy Sue, and Martha Lynn; and

WHEREAS, Colonel Monfurd K. Peyton was also the loving brother of Anthony, Vernon, and Warren Peyton and devoted uncle of David Peyton; and

WHEREAS, Colonel Monfurd K. Peyton died on October 11, 1982 and was buried in Arlington National Cemetery;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name the bridge located on the west side of West Liberty, Kentucky on United States Route 460 that crosses the Licking River near the intersection of United States Route 460 and Kentucky Route 2498 (Wells Hill Road) the "Colonel Monfurd K. Peyton Memorial Bridge."

Section 2. The Transportation Cabinet shall erect signs within thirty days of the effective date of this Resolution that read "The Colonel Monfurd K. Peyton Memorial Bridge" at each approach to the bridge located on the west side of West Liberty, Kentucky on United States Route 460 that crosses the Licking River near the intersection of United States Route 460 and Kentucky Route 2498 (Wells Hill Road).

Section 3. Six copies of this resolution shall be sent to Mr. Tony Adkins, Morgan County Historical Society, 1014 Liberty Road, West Liberty, KY 41472, who shall forward five copies to the Peyton family in care of Mrs. Florence Mae Peyton.

Approved March 12, 2001

CHAPTER 3

(HJR 7)

A JOINT RESOLUTION naming the "Terry Wilcutt Highway" in Logan County.

WHEREAS, Terry Wilcutt was born October 31, 1949, in Russellville, Kentucky; and

WHEREAS, Terry Wilcutt is the son of Inez Wilcutt, of Russellville, and the late George Boyce; and

WHEREAS, Terry Wilcutt's schooling began in a one-room schoolhouse in Epleys Station, Kentucky; and

WHEREAS, Terry Wilcutt graduated from Louisville's Southern High School in 1967 and earned a Bachelor of Arts degree in mathematics in 1974 from Western Kentucky University; and

WHEREAS, Terry Wilcutt taught high school math for two years prior to entering the Marine Corps and earning his commission in 1976; and

WHEREAS, Terry Wilcutt's career as a naval aviator and test pilot, from 1978 to 1990, was highlighted by testing of the F/A-18 Hornet, the A-7 Corsair II, and the F-4 Phantom, among other aircraft; and

WHEREAS, Terry Wilcutt has logged more than 4,400 flight hours in more than 30 different aircraft over the course of his career; and

WHEREAS, Terry Wilcutt was selected by NASA for astronaut training in 1990 and became an astronaut in July, 1991, becoming the first native Kentuckian among the ranks of America's astronauts; and

WHEREAS, Terry Wilcutt served as pilot on Space Shuttle missions in 1994 and 1996; and

WHEREAS, Terry Wilcutt has commanded two Space Shuttle missions, including flight ST-106 in October, 2000, which delivered supplies to and connected power, data and communications equipment for the International Space Station; and

WHEREAS, Terry Wilcutt was a member of the Class of 1995 inductees into Western Kentucky University's Hall of Distinguished Alumni; and

WHEREAS, Terry Wilcutt is the proud father of two sons, Andrew Brian and Aaron Michael; and

WHEREAS, Terry Wilcutt's life story and accomplishments show the value of hard work and educational attainment and are deserving of lasting recognition;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name United States Route 431 from its intersection with United States Route 68/Kentucky Route 80 to the city limits of Lewisburg the "Terry Wilcutt Highway."

Section 2. The Transportation Cabinet shall erect signs identifying the "Terry Wilcutt Highway" upon dedication of the route specified in Section 1 of this Resolution, at each end of the route and appropriate intervals along the route.

Approved March 12, 2001

CHAPTER 4

(HCR 15)

A CONCURRENT RESOLUTION confirming the appointment of Paul L. Whalen to the Kentucky Board of Education.

WHEREAS, KRS 156.029 specifies that the Kentucky Board of Education shall consist of eleven members, four of whom shall represent the state at large, appointed by the Governor, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, in Executive Order 2000-770, dated June 20, 2000, Governor Paul E. Patton appointed Paul L. Whalen to represent the state at large on the Kentucky Board of Education for a term expiring April 14, 2004; and

WHEREAS, by letter of December 20, 2000, the Governor has delivered Mr. Whalen's name for confirmation as a member of the board, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Mr. Whalen meets the requirement of KRS 156.029 to not be engaged as a professional educator;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Paul L. Whalen to the Kentucky Board of Education for a term expiring April 14, 2004.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol and Paul L. Whalen, 113 Ridgeway Avenue, Fort Thomas, Kentucky 41075, in writing, of the General Assembly's action.

Approved March 12, 2001

CHAPTER 5

(HB 92)

AN ACT relating to reorganization.

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

Section 1. KRS 336.015 is amended to read as follows:

- (1) The secretary of labor shall have the duties, responsibilities, power, and authority relating to labor, wages and hours, occupational safety and health of employees, child labor, apprenticeship, workers' compensation, and all other matters previously under the jurisdiction of the commissioner and Department of Labor.
- (2) The Labor Cabinet shall consist of the Offices of the Secretary, General Counsel, Administrative Services, **Information Technology**, Labor-Management Relations and Mediation; the Kentucky Workers' Compensation Funding Commission; the Workers' Compensation Board; the Occupational Safety and Health Review Commission; and the Departments of Workplace Standards, and Workers' Claims. The commissioner of the Department of Workplace Standards and the Department of Workers' Claims within the Labor Cabinet shall be under the direction and control of the secretary of the Labor Cabinet.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.

6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
 7. Superintendent of Public Instruction.
 8. Auditor of Public Accounts.
- II. Program cabinets headed by appointed officers:
1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
 2. Education, Arts, and Humanities Cabinet:
 - (a) Department of Education.
 - (1) Kentucky Board of Education.
 - (2) Education Professional Standards Board.
 - (b) Department for Libraries and Archives.
 - (c) Kentucky Arts Council.
 - (d) Kentucky Educational Television.
 - (e) Kentucky Historical Society.
 - (f) Kentucky Teachers' Retirement System Board of Trustees.
 - (g) Kentucky Center for the Arts.
 - (h) Kentucky Craft Marketing Program.
 - (i) Kentucky Commission on the Deaf and Hard of Hearing.
 - (j) Governor's Scholars Program.
 - (k) Governor's School for the Arts.
 - (l) Operations and Development Office.
 - (m) Kentucky Heritage Council.
 - (n) Kentucky African-American Heritage Commission.
 - (o) Board of Directors for the Center for School Safety.
 3. Natural Resources and Environmental Protection Cabinet:
 - (a) Environmental Quality Commission.

- (b) Kentucky Nature Preserves Commission.
 - (c) Department for Environmental Protection.
 - (d) Department for Natural Resources.
 - (e) Department for Surface Mining Reclamation and Enforcement.
 - (f) Office of Legal Services.
 - (g) Office of Information Services.
 - (h) Office of Inspector General.
4. Transportation Cabinet:
- (a) Department of Highways.
 - 1. Office of Program Planning and Management.
 - 2. Office of Project Development.
 - 3. Office of Construction and Operations.
 - 4. Office of Intermodal Programs.
 - 5. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Fiscal Management.
 - (e) Department of Rural and Municipal Aid.
 - (f) Department of Human Resources Management.
 - (g) Office of the Secretary.
 - (h) Office of General Counsel and Legislative Affairs.
 - (i) Office of Public Affairs.
 - (j) Office of Transportation Delivery.
 - (k) Office of Minority Affairs.
 - (l) Office of Policy and Budget.
5. Cabinet for Economic Development:
- (a) Department of Administration and Support.
 - (b) Department for Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department of Community Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
- (a) Public Service Commission.
 - (b) Department of Insurance.
 - (c) Department of Housing, Buildings and Construction.
 - (d) Department of Financial Institutions.
 - (e) Department of Mines and Minerals.

- (f) Department of Public Advocacy.
 - (g) Department of Alcoholic Beverage Control.
 - (h) Kentucky Racing Commission.
 - (i) Board of Claims.
 - (j) Crime Victims Compensation Board.
 - (k) Kentucky Board of Tax Appeals.
 - (l) Backside Improvement Commission.
 - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
 - (n) Department of Charitable Gaming.
7. Cabinet for Families and Children:
- (a) Department for Community Based Services.
 - (b) Department for Disability Determination Services.
 - (c) Public Assistance Appeals Board.
 - (d) Office of the Secretary.
 - (1) Kentucky Commission on Community Volunteerism and Service.
 - (e) Office of the General Counsel.
 - (f) Office of Program Support.
 - (g) Office of Family Resource and Youth Services Centers.
 - (h) Office of Technology Services.
 - (i) Office of the Ombudsman.
 - (j) Office of Performance Enhancement.
8. Cabinet for Health Services.
- (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission on Children with Special Health Care Needs.
 - (e) Office of Certificate of Need.
 - (f) Office of the Secretary.
 - (g) Office of the General Counsel.
 - (h) Office of Program Support.
 - (i) Office of the Inspector General.
 - (j) Office of Aging Services.
9. Finance and Administration Cabinet:
- (a) Office of Legal and Legislative Services.
 - (b) Office of Management and Budget.
 - (c) Office of Financial Management.
 - (d) Office of the Controller.
 - (e) Department for Administration.

- (f) Department of Facilities Management.
 - (g) State Property and Buildings Commission.
 - (h) Kentucky Pollution Abatement Authority.
 - (i) Kentucky Savings Bond Authority.
 - (j) Deferred Compensation Systems.
 - (k) Office of Equal Employment Opportunity Contract Compliance.
 - (l) Office of Capital Plaza Operations.
 - (m) County Officials Compensation Board.
 - (n) Kentucky Employees Retirement Systems.
 - (o) Commonwealth Credit Union.
 - (p) State Investment Commission.
 - (q) Kentucky Housing Corporation.
 - (r) Governmental Services Center.
 - (s) Kentucky Local Correctional Facilities Construction Authority.
 - (t) Kentucky Turnpike Authority.
 - (u) Historic Properties Advisory Commission.
 - (v) Kentucky Kare Health Insurance Authority.
 - (w) Kentucky Tobacco Settlement Trust Corporation.
10. Labor Cabinet:
- (a) Department of Workplace Standards.
 - (b) Department of Workers' Claims.
 - (c) Kentucky Labor-Management Advisory Council.
 - (d) Occupational Safety and Health Standards Board.
 - (e) Prevailing Wage Review Board.
 - (f) Workers' Compensation Board.
 - (g) Kentucky Employees Insurance Association.
 - (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.
 - (j) Kentucky Occupational Safety and Health Review Commission.
 - (k) Office of Administrative Services.
 - (l) ***Office of Information Technology.***
 - (m) Office of Labor-Management Relations and Mediation.
 - (n)~~(m)~~ Office of General Counsel.
 - (o)~~(n)~~ Workers' Compensation Funding Commission.
 - (p)~~(o)~~ Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
 - (b) Department of Tax Administration.

- (c) Office of Financial and Administrative Services.
 - (d) Department of Law.
 - (e) Department of Information Technology.
 - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
- (a) Department of Travel.
 - (b) Department of Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (d) Kentucky Horse Park Commission.
 - (e) State Fair Board.
 - (f) Office of Administrative Services.
 - (g) Office of General Counsel.
13. Cabinet for Workforce Development:
- (a) Department for Adult Education and Literacy.
 - (b) Department for Technical Education.
 - (c) Department of Vocational Rehabilitation.
 - (d) Department for the Blind.
 - (e) Department for Employment Services.
 - (f) State Board for Adult and Technical Education.
 - (g) The State Board for Proprietary Education.
 - (h) The Foundation for Adult Education.
 - (i) Office of Training and Reemployment.
 - (j) Office of General Counsel.
 - (k) Office of Communication Services.
 - (l) Office of Development and Industry Relations.
 - (m) Office of Workforce Analysis and Research.
 - (n) Office for Administrative Services.
 - (o) Office for Policy and Budget.
 - (p) Office of Personnel Services.
 - (q) Unemployment Insurance Commission.
14. Personnel Cabinet:
- (a) Office of Administrative and Legal Services.
 - (b) Department for Personnel Administration.
 - (c) Department for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Kentucky Kare.
 - (f) Division of Performance Management.
 - (g) Division of Employee Records.

- (h) Division of Staffing Services.
- (i) Division of Classification and Compensation.
- (j) Division of Employee Benefits.
- (k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Council on Postsecondary Education.
- 3. Department for Local Government.
- 4. Kentucky Commission on Human Rights.
- 5. Kentucky Commission on Women.
- 6. Department of Veterans' Affairs.
- 7. Kentucky Commission on Military Affairs.
- 8. The Governor's Office for Technology.
- 9. Commission on Small Business Advocacy.

Section 3. The General Assembly hereby confirms Executive Order 2000-1504, dated November 28, 2000, to the extent not otherwise confirmed by this Act. That executive order creates the Office of Information Technology within the Labor Cabinet to be headed by an Executive Director. The newly created Office of Information Technology shall consist of a network support branch, imaging branch, systems operation branch, and systems design and development branch. The Labor Cabinet, the Finance and Administration Cabinet, the Governor's Office for Policy Management, and the Personnel Cabinet shall take all necessary actions to effectuate the executive order and all necessary personnel, files, equipment, and funding shall be transferred from the Office of Administrative Services to the newly created Office of Information Technology.

Approved March 12, 2001

CHAPTER 6

(HB 367)

AN ACT relating to the simplification and modernization of sales and use tax administration.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

It is the intent and purpose of the General Assembly in enacting Sections 1 to 9 of this Act to encourage and increase voluntary compliance with Kentucky's sales and use tax law by entering into an agreement with one (1) or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce.

SECTION 2. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 9 of this Act may be cited as the Uniform Sales and Use Tax Administration Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 9 of this Act:

- (1) ***"Agreement" means the streamlined sales and use tax agreement;***
- (2) ***"Certified automated system" means software certified jointly by the states that are signatories to the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction;***

- (3) *"Certified service provider" means an agent certified jointly by the states that are signatories to the agreement to perform all of the seller's sales tax functions;*
- (4) *"Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity;*
- (5) *"Sales tax" means the tax levied under KRS 139.200;*
- (6) *"Seller" means any person making sales, leases, or rentals of personal property or services;*
- (7) *"State" means any state of the United States and the District of Columbia; and*
- (8) *"Use tax" means the tax levied under KRS 139.310.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

- (1) *The cabinet is authorized and directed to enter into the agreement with one (1) or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. To further the agreement, the cabinet is authorized to act jointly with other states that are members of the agreement to establish standards for certification of a certified service provider and certified automated system and establish performance standards for multistate sellers.*
- (2) *The cabinet is further authorized to take other actions reasonably required to implement the provisions set forth in Sections 1 to 9 of this Act. Other actions authorized by this section include, but are not limited to, the adoption of rules and regulations and the joint procurement, with other member states, of goods and services to further the cooperative agreement.*
- (3) *The secretary of the cabinet or the secretary's designee is authorized to represent this state before the other states that are signatories to the agreement.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

No provision of the agreement authorized by Sections 1 to 9 of this Act in whole or in part invalidates or amends any provision of the law of this state. Adoption of the agreement by the state does not amend or modify any law of this state. Implementation of any condition of the agreement in this state, whether adopted before, during, or after membership of this state in the agreement, shall be by action of this state.

SECTION 6. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

The cabinet shall not enter into the agreement unless the agreement requires each state to abide by the following requirements:

- (1) *The agreement shall set restrictions to achieve more uniform state rates through the following:*
 - (a) *Limiting the number of state rates;*
 - (b) *Limiting the application of maximums on the amount of state tax that is due on a transaction; and*
 - (c) *Limiting the application of thresholds on the application of state tax.*
- (2) *The agreement shall establish uniform standards for the following:*
 - (a) *The sourcing of transactions to taxing jurisdictions;*
 - (b) *The administration of exempt sales;*
 - (c) *The allowances a seller can take for bad debts; and*
 - (d) *Sales and use tax returns and remittances.*
- (3) *The agreement shall require states to develop and adopt uniform definitions of sales and use tax terms. The definitions shall enable a state to preserve its ability to make policy choices not inconsistent with the uniform definitions.*
- (4) *The agreement shall provide a central, electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states.*
- (5) *The agreement shall provide that registration with the central registration system and the collection of sales and use taxes in the signatory state will not be used as a factor in determining whether the seller has nexus with a state for any tax.*

- (6) *The agreement shall provide for a reduction of the burdens of complying with local sales and use taxes through the following:*
- (a) *Restricting variances between the state and local tax bases;*
 - (b) *Requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions;*
 - (c) *Restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes; and*
 - (d) *Providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions.*
- (7) *The agreement shall outline any monetary allowances that are to be provided by the states to sellers or certified service providers.*
- (8) *The agreement shall require each state to certify compliance with the terms of the agreement prior to joining and to maintain compliance under the laws of the member state, with all provisions of the agreement while a member.*
- (9) *The agreement shall require each state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information.*
- (10) *The agreement shall provide for the appointment of an advisory council of private sector representatives and an advisory council of non-member state representatives to consult with in the administration of the agreement.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

The agreement authorized by Sections 1 to 9 of this Act is an accord among individual, cooperating sovereigns in furtherance of their governmental functions. The agreement provides a mechanism among the member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the duly adopted law of each member state.

SECTION 8. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

- (1) *The agreement authorized by Sections 1 to 9 of this Act binds and inures only to the benefit of this state and the other member states. No person, other than a member state, is an intended beneficiary of the agreement. Any benefit to a person other than a state is established by the law of the state and the other member states and not by the terms of this agreement.*
- (2) *Consistent with subsection (1) of this section, no person shall have any cause of action or defense under the agreement or by virtue of this state's approval of the agreement. No person may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of this state, or any political subdivision of this state on the ground that the action or inaction is inconsistent with the agreement.*
- (3) *No law of this state, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the agreement.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

- (1) *A certified service provider is the agent of a seller, with whom the certified service provider has contracted, for the collection and remittance of sales and use taxes. As the seller's agent, the certified service provider is liable for sales and use tax due each member state on all sales transactions it processes for the seller except as set out in this section. A seller that contracts with a certified service provider is not liable to the state for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresented the type of items it sells or committed fraud. In the absence of probable cause to believe that the seller has committed fraud or made a material misrepresentation, the seller is not subject to audit on the transactions processed by the certified service provider. A seller is subject to audit for transactions not processed by the certified service provider. The member states acting jointly may perform a system check of the seller and review the seller's procedures to determine if the certified service provider's system is*

functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.

- (2) *A person that provides a certified automated system is responsible for the functioning of that system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified automated system. A seller that uses a certified automated system remains responsible and is liable to the state for reporting and remitting tax.*
- (3) *A seller that has a proprietary system for determining the amount of tax due on transactions and has signed an agreement establishing a performance standard for that system is liable for the failure of the system to meet the performance standard.*

Approved March 13, 2001

CHAPTER 7

(HB 278)

AN ACT relating to retirement.

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

SECTION 1. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding any provision of any statutes to the contrary, effective June 1, 2000, any employee participating in one (1) of the state-administered retirement systems who is not in a hazardous duty position, as defined in KRS 61.592, shall be eligible for minimum benefits equal to the benefits payable under this section or Section 2 of this Act if the employee dies or becomes disabled as a result of a duty-related injury.*
- (2) (a) *For purposes of this section, "duty-related injury" means:*
 1. a. *A single traumatic event that occurs while the employee is performing the duties of his position; or*
 - b. *A single act of violence committed against the employee that is found to be related to his job duties, whether or not it occurs at his job site; and*
 2. *The event or act of violence produces a harmful change in the human organism evidenced by objective medical findings.*
- (b) *Duty-related injury does not include the effects of the natural aging process, a communicable disease unless the risk of contracting the disease is increased by nature of the employment, or a psychological, psychiatric, or stress-related change in the human organism unless it is the direct result of a physical injury.*
- (3) (a) *If the employee dies as a result of a duty-related injury and is survived by a spouse, the surviving spouse shall be the beneficiary, and this shall supersede the designation of all previous beneficiaries of the deceased employee's retirement account.*
- (b) *The surviving spouse may elect to receive the benefits payable under KRS 61.640 or other applicable death benefit statutes, or may elect to receive a lump-sum payment of ten thousand dollars (\$10,000) and a monthly payment equal to twenty-five percent (25%) of the member's monthly final rate of pay beginning in the month following the member's death and continuing each month until death or until the spouse remarries, whichever occurs first.*
- (4) *If the employee is determined to be disabled as provided in KRS 61.600, or other applicable disability statutes in any other state-administered retirement system, as the result of a duty-related injury, the employee may elect to receive benefits determined under the provisions of KRS 61.605, or other applicable disability statutes in any other state-administered retirement system, except that the monthly retirement allowance shall not be less than twenty-five percent (25%) of the employee's monthly final rate of pay. For purposes of determining disability, the service requirement in KRS 61.600(1)(a), or other applicable statutes in any other state-administered retirement system, shall be waived.*
- (5) *In the period of time following a member's death or disability during which dependent children survive, a monthly payment shall be made for each dependent child who is alive which shall be equal to ten percent*

(10%) of the deceased or disabled member's monthly final rate of pay; however, total maximum dependent children's benefits shall not exceed forty percent (40%) of the deceased or disabled member's monthly final rate of pay at the time any particular payment is due. The payment shall commence in the month following the date of death or disability of the member and shall be payable to the beneficiaries, or to a legally appointed guardian, or as directed by the system. Benefits for death as a result of a duty-related injury shall be payable under this subsection notwithstanding an election by a beneficiary to withdraw the deceased member's accumulated contributions as provided in KRS 61.625 or benefits under any other provisions of KRS 61.515 to 61.705 or other applicable death benefit statutes in any other state-administered retirement system.

(6) This section shall be known as "The Fred Capps Memorial Act."

Section 2. KRS 61.702 is amended to read as follows:

- (1) (a) The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System. The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. Any person who chooses coverage by a health maintenance organization shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of health maintenance organization coverage and the benefits to which he would be entitled under this section. The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status. Notwithstanding the provisions of any other statute, recipients shall be included in the same class as current state employees in determining medical insurance policies and premiums.
- (b) For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (7) of this section.
- (2) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.
- (3) (a) The premium required to provide hospital and medical benefits under this section shall be paid:
 1. Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or otherwise;
 2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance fund;
 3. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that any portion of the premium paid from the Kentucky Retirement Systems insurance fund under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems;
 4. Partly from subparagraphs 1., 2., or 3., except that any premium for hospital and medical insurance over the amount contributed by the Kentucky Retirement Systems insurance fund or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the

Kentucky Retirement Systems insurance fund shall pay the balance, not to exceed the monthly contribution.

5. In full from the Kentucky Retirement Systems insurance fund for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, ~~an~~~~a State Police Retirement System member or a hazardous position~~ employee *participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems*~~[- as defined in KRS 61.592,]~~ who becomes disabled in the line of duty as defined in KRS 16.505(19) *or Section 1 of this Act*, shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, ~~an~~~~a State Police Retirement System member, or a hazardous position~~ employee *participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems*~~[- as defined in KRS 61.592,]~~ who is killed in the line of duty as defined in KRS 16.505(19) *or Section 1 of this Act*, shall have the premium for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service."
- (b) For a member electing insurance coverage through the Kentucky Retirement Systems, "months of service" shall include, in addition to service as described in paragraph (a) of this subsection, service credit in one of the other state-administered retirement plans.
 1. Effective August 1, 1998, the Kentucky Retirement Systems shall compute the member's combined service, including service credit in another state-administered retirement plan, and calculate the portion of the member's premium to be paid by the insurance fund, according to the criteria established in paragraph (a) of this subsection. Each state-administered retirement plan annually shall pay to the insurance fund the percentage of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his total combined service. The amounts paid by the other state-administered retirement plans and the insurance fund shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees.
 2. A member may not elect coverage for hospital and medical benefits under this subsection through more than one (1) of the state-administered retirement plans.
 3. A state-administered retirement plan shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.
- (4) (a) Group rates under the hospital and medical insurance plan shall be made available to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the spouse, dependent, disabled child, or beneficiary hospital and medical insurance is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

- (b) The other provisions of this section notwithstanding, the insurance fund shall pay a percentage of the monthly contribution for the spouse and dependents of a recipient who was a member of the General Assembly and is receiving a retirement allowance based on General Assembly service, of the Kentucky Employees Retirement System and determined to be in a hazardous position, of the County Employees Retirement System, and determined to be in a hazardous position or of the State Police Retirement System, or the beneficiary of the member, if the member designated only one (1) person as beneficiary. The percentage of the monthly contribution paid for the spouse and dependents of a recipient who was in a hazardous position shall be based solely on the member's service with the State Police Retirement System or service in a hazardous position using the formula in subsection (3)(a) of this section, except that for any recipient of a retirement allowance from the County Employees Retirement System who was contributing to the system on January 1, 1998, for service in a hazardous position, the percentage of the monthly contribution shall be based on the total of hazardous service and any nonhazardous service as a police or firefighter with the same agency, if that agency was participating in the County Employees Retirement System but did not offer hazardous duty coverage for its police and firefighters at the time of initial participation.
 - (c) The insurance fund shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance fund provides coverage for the spouse or dependents or beneficiary of a former member of the County Employees Retirement System, the insurance fund shall continue the same level of coverage for the spouse or dependent or beneficiary after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent or beneficiary is not eligible for Medicare coverage.
- (5) After July 1, 1998, notwithstanding any other provision to the contrary, a member who holds a judicial office but did not elect to participate in the Judicial Retirement Plan and is participating instead in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, as provided in KRS 61.680, and who has at least twenty (20) years of total service, one-half (1/2) of which is in a judicial office, shall receive the same hospital and medical insurance benefits, including paid benefits for spouse and dependents, as provided to persons retiring under the provisions of KRS 21.427. The Administrative Office of the Courts shall pay the cost of the medical insurance benefits provided by this subsection.
 - (6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.
 - (7) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance premiums of recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly premium determined under subsection (3) of this section. The plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.

Section 3. KRS 78.545 is amended to read as follows:

The following matters shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

- (1) Cessation of membership, conditions, as provided for by KRS 61.535;
- (2) Statement of member and employer, as provided for by KRS 61.540;
- (3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;
- (4) Service credit determination, as provided for by KRS 61.545;
- (5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

- (6) Service credit, Armed Forces, as provided for by KRS 61.555;
- (7) Normal and early retirement eligibility requirements, as provided for by KRS 61.559;
- (8) Retirement allowance increases as provided for by KRS 61.691;
- (9) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;
- (10) Disability retirement, conditions, as provided for by KRS 61.600;
- (11) Disability retirement, allowance, as provided for by KRS 61.605;
- (12) Medical examination after disability retirement, as provided for by KRS 61.610;
- (13) Disability retirement allowance, reduction, as provided for by KRS 61.615;
- (14) Determination of retirement allowance, as provided for by KRS 61.595;
- (15) Refund of contributions, conditions, as provided for by KRS 61.625;
- (16) Refund of contributions, death after retirement, as provided for by KRS 61.630;
- (17) Optional retirement plans, as provided for by KRS 61.635;
- (18) Suspension of retirement payments on reemployment, reinstatement, as provided for by KRS 61.637;
- (19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;
- (20) Board of trustees, conflict of interest, as provided for by KRS 61.655;
- (21) Custodian of funds, payments made, when, as provided for by KRS 61.660;
- (22) Medical examiners and hearing procedures, as provided for by KRS 61.665;
- (23) Actuarial bases, as provided for by KRS 61.670;
- (24) Employer's administrative duties, as provided for by KRS 61.675;
- (25) Correction of errors in records, as provided for by KRS 61.685;
- (26) Exemptions of retirement allowances, as provided for by KRS 61.690;
- (27) Credit for service prior to membership date, as provided for by KRS 61.526;
- (28) Creditable compensation of fee officers, as provided for by KRS 61.541;
- (29) Transfer of dormant accounts, as provided for by KRS 61.626;
- (30) Members' account, confidential, as provided for by KRS 61.661;
- (31) Retirement plan for employees determined to be in a hazardous position, as provided for by KRS 61.592;
- (32) Maximum disability benefit, as provided for by KRS 61.607;
- (33) Consent of employees to deductions and reciprocal arrangement between systems, as provided for by KRS 61.680;
- (34) Employer contributions, as provided for by KRS 61.565;
- (35) Recontribution and delayed contribution payments, purchase of service credit, interest, and installment payments, as provided for by KRS 61.552;
- (36) Hospital and medical insurance plan, as provided by KRS 61.702;
- (37) Death benefit, as provided by KRS 61.705;
- (38) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;
- (39) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;
- (40) Disability procedure for members in hazardous positions as provided for in KRS 16.582;~~and~~
- (41) Direct deposit of recipient's retirement allowance as provided for in KRS 61.623;
- (42) *Death or disability from a duty-related injury as provided in Section 1 of this Act; and*

(43) Purchase of service credit effective July 1, 2001, as provided in Section 6 of this Act.

Section 4. KRS 164.2841 is amended to read as follows:

- (1) (a) Any person whose parent or any nonmarried widow or widower whose spouse was a resident of the Commonwealth of Kentucky upon becoming a law enforcement officer, firefighter, or volunteer firefighter and who was killed while in active service or training for active service or who died as a result of a service-connected disability shall not be required to pay any matriculation or tuition fee upon admission to any state-supported university, community college, or vocational training institution. The provisions of this subsection shall apply to any firefighter or volunteer firefighter who is killed or dies under the conditions covered in this subsection on July 1, 1989, or thereafter.
- (b) ~~(2)~~ In order to obtain the benefits conferred by **paragraph (a) of this subsection** ~~[(1) of this section]~~, the parent-child relationship shall be shown by birth certificate, adoption papers, or other documentary evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death shall be evidenced by certification from the records of the Kentucky Justice Cabinet, the appropriate city or county law enforcement agency which employed the deceased, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes.
- (2) (a) ***Any person whose parent or any nonmarried widow or widower whose spouse was an employee participating in a state-administered retirement system, and not otherwise covered by subsection (1) of this section, and who died as a result of a duty-related injury as described in Section 1 of this Act shall not be required to pay any matriculation or tuition fee upon admission to any state-supported university, community college, or vocational training institution.***
- (b) ***In order to obtain the benefits conferred by paragraph (a) of this subsection, the parent-child relationship shall be shown by birth certificate, adoption papers, or other documentary evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death shall be evidenced by certification from the records of the employing agency or the appropriate retirement system.***
- (3) If one so admitted to a state-supported university, community college, or vocational training institution under the provisions of this section shall have obtained a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the applicant in the payment of incidental expenses of his attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the applicant.

Section 5. KRS 164.2842 is amended to read as follows:

- (1) (a) The spouse, regardless of age, and any child of a permanently and totally disabled law enforcement officer, firefighter, or volunteer firefighter injured while in active service or in training for active service, who is over the age of seventeen (17) and under the age of twenty-three (23) shall not be required to pay any matriculation or tuition fee upon his admission to any state-supported university, community college, or vocational training institution for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.
- (b) ~~(2)~~ For the spouse or child to be entitled to benefits under this section, the disabled law enforcement officer, firefighter, or volunteer firefighter shall be rated permanently and totally disabled for pension purposes or one hundred percent (100%) disabled for compensation purposes by the Kentucky Justice Cabinet, the appropriate city or county law enforcement agency which employed the disabled, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes, or if deceased, the claim to benefits is to be based on the rating held by the law enforcement officer, firefighter, or volunteer firefighter at the time of death. The parent's or spouse's service and rating shall be evidenced by certification from the records of the Kentucky Justice Cabinet, the appropriate local law enforcement agency, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes.

- ~~(c)(3)~~ In the absence of certification of permanent and total disability by the Kentucky Department of Workers' Claims, the Kentucky Justice Cabinet, the appropriate local law enforcement agency, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes, medical evidence showing permanent and total disability or the existence of permanent and total disability for a period of at least thirty (30) days immediately prior to death may be accepted, if this evidence is signed by a physician licensed to practice or an official of an accredited medical hospital.
- ~~(d)(4)~~ The parent-child relationship shall be shown by birth certificate, legal adoption papers, or other documentary evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence.
- ~~(e)(5)~~ To entitle a spouse or child to benefits under this section the disabled law enforcement officer, firefighter, or volunteer firefighter shall have been a resident of the Commonwealth of Kentucky upon becoming a law enforcement officer, firefighter, or volunteer firefighter.
- (2) (a) *The spouse, regardless of age, and any child of a person who was an employee participating in a state-administered retirement system and not otherwise covered by subsection (1) of this section and who was disabled as a result of a duty-related injury as described in Section 1 of this Act, who is over the age of seventeen (17) and under the age of twenty-three (23) shall not be required to pay any matriculation or tuition fee upon his admission to any state-supported university, community college, or vocational training institution for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.*
- (b) *The parent-child relationship shall be shown by birth certificate, legal adoption papers, or other documentary evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence.*
- ~~(3)(6)~~ The marriage of an eligible child shall not serve to deny full entitlement to the benefits provided in this section.

SECTION 6. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO READ AS FOLLOWS:

- (1) *Effective July 1, 2001, purchase of service under the provisions of KRS 16.505 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852, except as provided in subsection (2) of this section, shall be determined by multiplying the higher of the employee's current rate of pay, final rate of pay, or final compensation as of the end of the month in which the purchase is made times the actuarial factor times the number of years of service being purchased.*
- (2) *This provision shall not apply to KRS 61.552(1) and (24), or KRS 61.592(3)(c).*

Section 7. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

- (1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;
- (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- (3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;
- (4) "Examiner" means the medical examiners as provided in KRS 61.665;
- (5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

- (6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;
- (7) "State" means the Commonwealth of Kentucky;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he occupies the position during a legislative biennium subsequent to January 1, 1960;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he occupied the position during a legislative biennium prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service; ~~except that for an employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems whose prior service was in a position in an office of a Commonwealth's attorney the prior service may be validated by at least twelve (12) months of current service in the Kentucky Employees Retirement System or by at least fifteen (15) years of current service in the County Employees Retirement System. An employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems who wishes to validate prior service in a position in an office of a Commonwealth's attorney with fifteen (15) years of County Employees Retirement System service shall notify the Kentucky Retirement Systems of his or her eligibility for the service prior to January 1, 1999;~~
- (12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;
- (13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars (\$27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the biennium. A lump-sum bonus, severance pay, or employer provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;
- (14) "Final compensation" of a member means:

- (a) For a member who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars (\$27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; **or**
 - (b) *For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance; or*
 - (c) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;
- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;
 - (16) "Retirement allowance" means the retirement payments to which a member is entitled;
 - (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;
 - (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;
 - (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;
 - (20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) legislative bienniums;
 - (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:
 - (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;
 - (b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

- (c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months;
 - (d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and
 - (e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;
- (22) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;
- (23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;
- (24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
- (27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;
- (28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;
- (29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;
- (30) "Person" means a natural person;
- (31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

- (34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543; and
- (35) "Month" means a calendar month.

Section 8. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

- (1) "System" means the County Employees Retirement System;
- (2) "Board" means the board of trustees of the system as provided in KRS 78.780;
- (3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- (6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;
- (7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;
- (12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;
- (13) "Creditable compensation" means all salary, wages, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation", including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer. If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, payments received after

the date of termination of employment for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board shall be excluded. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" means:

- (a) For a member who is employed in a nonhazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; *or*
- (b) *For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance; or*
- (c) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

- (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;
 - (b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;
 - (c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or
 - (d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;
- (22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);
- (23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;
- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;
- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;
- (27) "Person" means a natural person;
- (28) "School term or year" means the twelve (12) months from July 1 through the following June 30;
- (29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;
- (31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615; and
- (32) "Month" means a calendar month.

Section 9. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

- (1) Cessation of membership, as provided for by KRS 61.535;
- (2) Medical examiners and hearing procedures, as provided for by KRS 61.665;
- (3) Actuarial bases, as provided for by KRS 61.670;
- (4) Duties of the employer, as provided for by KRS 61.675;

- (5) Exemption of benefits of the system for taxation, as provided for by KRS 61.690;
- (6) Retirement allowance increase, as provided for by KRS 61.691;
- (7) Calculation of retirement allowance, as provided for by KRS 61.595(3) and (4);
- (8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;
- (9) Year of service credit, as provided for by KRS 61.545;
- (10) Refund of contributions, death after retirement, as provided by KRS 61.630;
- (11) Custodian of fund, payments made, when, as provided for by KRS 61.660;
- (12) Credit for service prior to membership date, as provided for by KRS 61.526;
- (13) Transfer of dormant accounts, as provided for by KRS 61.626;
- (14) Member's account, confidential, as provided for by KRS 61.661;
- (15) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
- (16) Correction of errors in records, as provided for by KRS 61.685;
- (17) Maximum disability benefit, as provided for by KRS 61.607;
- (18) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;
- (19) Employer contributions, as provided for by KRS 61.565;
- (20) Reinstatement of lost service credit, purchase of service credit, interest paid, delayed contribution and installment payments, as provided for by KRS 61.552;
- (21) Reciprocal arrangement between systems, as provided by KRS 61.680;
- (22) Refund of contributions, conditions, as provided by KRS 61.625;
- (23) Hospital and medical insurance plan, as provided by KRS 61.702;
- (24) Death benefit, as provided by KRS 61.705;
- (25) Disability retirement allowance, reduction, discontinuance, as provided by KRS 61.615;
- (26) Service credit, Armed Forces, as provided by KRS 61.555;
- (27) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;
- (28) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;
- (29) Retirement of persons in hazardous positions, as provided for by KRS 61.592;~~and~~
- (30) Direct deposit of recipient's retirement allowance as provided in KRS 61.623; *and*
- (31) *Purchase of service credit effective July 1, 2001, as provided in Section 6 of this Act.*

Approved March 15, 2001

CHAPTER 8

(HJR 71)

A JOINT RESOLUTION relating to approval of a capital project and authorizing funds therefor.

WHEREAS, KRS 45.750 to 45.816 and other provisions of the Kentucky Revised Statutes require that capital construction projects be enumerated, authorized, and funds appropriated therefor by the General Assembly when the projects exceed \$400,000 in total costs; and

WHEREAS, the Bert T. Combs Building, owned by the Commonwealth and currently used by the Division of Forestry, Natural Resources and Environmental Protection Cabinet, is located directly across Highway 25E in Bell County from Pine Mountain State Resort Park; and

WHEREAS, with the expansion of the Pine Mountain State Resort Park Golf Course, it is anticipated that a hotel development in the area would be of local and regional tourism and recreational benefits; and

WHEREAS, the Pine Mountain State Resort Park Golf Course is located directly across from the Division of Forestry facility, and tremendous local community support exists for surplusing the Division of Forestry property, thus allowing for private development of a hotel at its current site; and

WHEREAS, the Division of Forestry would benefit by constructing a new facility which would allow for their administrative offices and increased support services to be at the same location;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. In accordance with the provisions of KRS 45.750 to 45.816, regarding capital construction projects, and notwithstanding KRS 45A.045(4) and (5) regarding surplus property, the General Assembly approves and authorizes the sale, lease, or conveyance by other means of the present forestry building, and the real property on which it is located in Bell County, through a competitive bid request for proposals to allow for the construction and operation of a new hotel facility at the present forestry location, in exchange for the construction and conveyance of a new facility for the Division of Forestry located in the present district. The new facility shall have at least 4600 net square feet of administrative office space, and 750 square feet of storage space and, in addition, shall allow for vehicle parking and equipment storage appropriate for a district office. The new facility shall include installation of all utility services, including roads and sewers, necessary to make the building complete.

Section 2. The General Assembly hereby approves the exchange of the state forestry property located in Bell County as consideration for a new facility. The final conveyance of the Bert T. Combs Building and the real property on which it is located, owned by the Commonwealth and currently used by the Division of Forestry, Natural Resources and Environmental Protection Cabinet, shall not be deeded to the successful bidder until such time as the successful bidder completes the new forestry building. The site location and building design shall be approved by the Secretary of the Finance and Administration Cabinet. The Secretary of the Finance and Administration Cabinet shall submit a progress report to the Capital Projects and Bond Oversight Committee.

Approved March 15, 2001

CHAPTER 9

(HB 370)

AN ACT relating to sales and use taxes.

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

Section 1. KRS 139.472 is amended to read as follows:

- (1) "Prescription medicine" shall mean and include:
 - (a) Any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment, or prevention of disease and which is:
 1. ~~{commonly recognized as a substance or preparation intended for such use which is}~~ Prescribed for the treatment of a human being by a person authorized to prescribe the medicines and dispensed on prescription by a registered pharmacist in accordance with law; ~~or{and}~~
 2. ***Commonly recognized as a substance or preparation prescribed and dispensed as provided in subparagraph 1. of this paragraph and intended to be distributed as a free sample to or from a physician's office; and***
 - (b) Medical oxygen when purchased by the patient for private use.
- (2) "Prosthetic devices and physical aids" for the purpose of this section shall mean and include artificial devices prescribed by a licensed physician, or individually designed, constructed, or altered solely for the use of a particular crippled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure including the extremities of the individual; artificial limbs, artificial eyes, hearing aids prescribed by a licensed physician, or individually designed, constructed, or altered solely for the use of a particular disabled person; crutches, walkers, hospital beds, wheelchairs, wheelchair repair and replacement parts, and wheelchair

lifting devices for the use of invalids and crippled persons; colostomy supplies, urostomy supplies, ileostomy supplies, insulin and diabetic supplies, such as hypodermic syringes and needles, and sugar (urine and blood) testing materials purchased for use by diabetics.

- (3) The terms "sale at retail," "retail sale," "use," "storage," and "consumption" as used in this chapter shall not include the sale, use, storage, or consumption of prescription medicine, prosthetic devices, and physical aids.

Section 2. This Act shall only apply to the sale or distribution of prescription medicine on or after July 1, 2001.

Approved March 15, 2001

CHAPTER 10

(HB 309)

AN ACT relating to veterans' affairs.

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

Section 1. KRS 40.305 is amended to read as follows:

- (1) There is created a board to be known as the **Governor's** Advisory Board for Veterans' Affairs, which shall be attached to the Department of Veterans' Affairs.
- (2) The board shall be composed of the following:
 - (a) Seven (7) members appointed by the Governor;
 - (b) The executive director of the Kentucky Commission on Military Affairs; and
 - (c) The adjutant general of the Commonwealth.
- (3) All board members appointed by the Governor shall serve until their successors are appointed, and all appointments shall be for three (3) years. It is further provided that the appointments shall be veterans with service during time of war or hostilities wherein American troops were engaged in conflict with an armed enemy. If practicable, the Governor, in making appointments to the board, shall give due consideration to a fair representation on the board of nationally recognized veterans' organizations active in Kentucky, based on size of the membership of such organizations in this state. The state headquarters of each major veterans' organization may, from time to time, submit a list of not more than three (3) names to the Governor from which list original appointments may be made and vacancies filled in his discretion.
- (4) Members of the board shall meet at least once every two (2) months at the Department of Veterans' Affairs, and at such other times as the chairman may designate, and the members shall decide as to the specific meeting date.
- (5) Members of the board shall be paid for the actual expenses incurred upon attendance of meetings of the board subject to the Finance and Administration Cabinet regulations.
- (6) At its first meeting the members of the board shall select a chairman, vice chairman, and secretary from among the *appointed* members.
- (7) ***The Department of Veterans' Affairs shall provide administrative support to the board.***
- (8) The board shall advise the commissioner of the Department of Veterans' Affairs ***and the Governor*** on the administration of veterans' services programs.
- ~~(9)~~ The commissioner shall advise the Governor on matters relating to veterans' affairs.
- ~~(10)~~ The commissioner ***and the board*** shall advise the General Assembly on matters relating to veterans' affairs ***and the administration of veterans' services programs.***

Section 2. KRS 40.300 is amended to read as follows:

- (1) There is created the Department of Veterans' Affairs, which shall be attached to the Office of the Governor for administrative purposes. Notwithstanding KRS 12.028, the department's status as a separate organizational unit

attached to the Office of the Governor shall not be changed except by action of the General Assembly. The department shall be headed by a commissioner appointed by the Governor pursuant to KRS 12.040. The Office of the Commissioner is created within the department.

- (2) The Department of Veterans' Affairs shall include the *Governor's* Advisory Board for Veterans' Affairs established by KRS 40.305.
- (3) The Department of Veterans' Affairs shall be responsible for providing services to veterans in accordance with KRS 40.310 and KRS 40.320 to 40.335.

Approved March 15, 2001

CHAPTER 11

(HB 305)

AN ACT relating to the Public Service Commission.

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

Section 1. KRS 278.010 is amended to read as follows:

As used in KRS 278.010 to 278.450, and in KRS 278.990, unless the context otherwise requires:

- (1) "Corporation" includes private, quasipublic, and public corporations, and all boards, agencies, and instrumentalities thereof, associations, joint-stock companies, and business trusts;
- (2) "Person" includes natural persons, partnerships, corporations, and two (2) or more persons having a joint or common interest;
- (3) "Utility" means any person except, for purposes of paragraphs (a), (b), (c), (d), and (f) of this subsection, a city, who owns, controls, operates, or manages any facility used or to be used for or in connection with:
 - (a) The generation, production, transmission, or distribution of electricity to or for the public, for compensation, for lights, heat, power, or other uses;
 - (b) The production, manufacture, storage, distribution, sale, or furnishing of natural or manufactured gas, or a mixture of same, to or for the public, for compensation, for light, heat, power, or other uses;
 - (c) The transporting or conveying of gas, crude oil, or other fluid substance by pipeline to or for the public, for compensation;
 - (d) The diverting, developing, pumping, impounding, distributing, or furnishing of water to or for the public, for compensation;
 - (e) The transmission or conveyance over wire, in air, or otherwise, of any message by telephone or telegraph for the public, for compensation; or
 - (f) The collection, transmission, or treatment of sewage for the public, for compensation, if the facility is a subdivision collection, transmission, or treatment facility plant that is affixed to real property and is located in a county containing a city of the first class or is a sewage collection, transmission, or treatment facility that is affixed to real property, that is located in any other county, and that is not subject to regulation by a metropolitan sewer district or any sanitation district created pursuant to KRS Chapter 220;
- (4) "Retail electric supplier" means any person, firm, corporation, association, or cooperative corporation, excluding municipal corporations, engaged in the furnishing of retail electric service;
- (5) "Certified territory" shall mean the areas as certified by and pursuant to KRS 278.017;
- (6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is being or has been substantially used to supply retail electric service and includes all lines from the distribution substation to the electric consuming facility but does not include any transmission facilities used primarily to transfer energy in bulk;
- (7) "Retail electric service" means electric service furnished to a consumer for ultimate consumption, but does not include wholesale electric energy furnished by an electric supplier to another electric supplier for resale;

- (8) "Electric-consuming facilities" means everything that utilizes electric energy from a central station source;
- (9) "Generation and transmission cooperative," or "G&T," means a utility formed under KRS Chapter 279 that provides electric generation and transmission services;
- (10) "Distribution cooperative" means a utility formed under KRS Chapter 279 that provides retail electric service;
- (11) "Facility" includes all property, means, and instrumentalities owned, operated, leased, licensed, used, furnished, or supplied for, by, or in connection with the business of any utility;
- (12) "Rate" means any individual or joint fare, toll, charge, rental, or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement, or privilege in any way relating to such fare, toll, charge, rental, or other compensation, and any schedule or tariff or part of a schedule or tariff thereof;
- (13) "Service" includes any practice or requirement in any way relating to the service of any utility, including the voltage of electricity, the heat units and pressure of gas, the purity, pressure, and quantity of water, and in general the quality, quantity, and pressure of any commodity or product used or to be used for or in connection with the business of any utility;
- (14) "Adequate service" means having sufficient capacity to meet the maximum estimated requirements of the customer to be served during the year following the commencement of permanent service and to meet the maximum estimated requirements of other actual customers to be supplied from the same lines or facilities during such year and to assure such customers of reasonable continuity of service;
- (15) "Commission" means the Public Service Commission of Kentucky;
- (16) "Commissioner" means one (1) of the members of the commission;
- (17) "Demand-side management" means any conservation, load management, or other utility activity intended to influence the level or pattern of customer usage or demand, ***including home energy assistance programs***;
- (18) "Affiliate" means a person that controls or that is controlled by, or is under common control with, a utility;
- (19) "Control" means the power to direct the management or policies of a person through ownership, by contract, or otherwise;
- (20) "CAM" means a cost allocation manual which is an indexed compilation and documentation of a company's cost allocation policies and related procedures;
- (21) "Nonregulated activity" means the provision of competitive retail gas or electric services or other products or services over which the commission exerts no regulatory authority;
- (22) "Nonregulated" means that which is not subject to regulation by the commission;
- (23) "Regulated activity" means a service provided by a utility, the rates and charges of which are regulated by the commission;
- (24) "USoA" means uniform system of accounts which is a system of accounts for public utilities established by the FERC and adopted by the commission;
- (25) "Arm's length" means the standard of conduct under which unrelated parties, each party acting in its own best interest, would negotiate and carry out a particular transaction;
- (26) "Subsidize" means the recovery of costs or the transfer of value from one (1) class of customer, activity, or business unit that is attributable to another;
- (27) "Solicit" means to engage in or offer for sale a good or service, either directly or indirectly and irrespective of place or audience;
- (28) "USDA" means the United States Department of Agriculture;
- (29) "FERC" means the Federal Energy Regulatory Commission; and
- (30) "SEC" means the Securities and Exchange Commission.

Section 2. KRS 278.285 is amended to read as follows:

- (1) The commission may determine the reasonableness of demand-side management plans proposed by any utility under its jurisdiction. Factors to be considered in this determination include, but are not limited to, the following:
 - (a) The specific changes in customers' consumption patterns which a utility is attempting to influence;
 - (b) The cost and benefit analysis and other justification for specific demand-side management programs and measures included in a utility's proposed plan;
 - (c) A utility's proposal to recover in rates the full costs of demand-side management programs, any net revenues lost due to reduced sales resulting from demand-side management programs, and incentives designed to provide positive financial rewards to a utility to encourage implementation of cost-effective demand-side management programs;
 - (d) Whether a utility's proposed demand-side management programs are consistent with its most recent long-range integrated resource plan;
 - (e) Whether the plan results in any unreasonable prejudice or disadvantage to any class of customers;
 - (f) The extent to which customer representatives and the Office of the Attorney General have been involved in developing the plan, including program design, cost recovery mechanisms, and financial incentives, and if involved, the amount of support for the plan by each participant, provided however, that unanimity among the participants developing the plan shall not be required for the commission to approve the plan; and
 - (g) The extent to which the plan provides programs which are available, affordable, and useful to all customers.
- (2) A proposed demand-side management mechanism including:
 - (a) Recover the full costs of commission-approved demand-side management programs and revenues lost by implementing these programs;
 - (b) Obtain incentives designed to provide financial rewards to the utility for implementing cost-effective demand-side management programs; or
 - (c) Both of the actions specified

may be reviewed and approved by the commission as part of a proceeding for approval of new rate schedules initiated pursuant to KRS 278.190 or in a separate proceeding initiated pursuant to this section which shall be limited to a review of demand-side management issues and related rate-recovery issues as set forth in subsection (1) of this section and in this subsection.
- (3) The commission shall assign the cost of demand-side management programs only to the class or classes of customers which benefit from the programs. The commission shall allow individual industrial customers with energy intensive processes to implement cost-effective energy efficiency measures in lieu of measures approved as part of the utility's demand-side management programs if the alternative measures by these customers are not subsidized by other customer classes. Such individual industrial customers shall not be assigned the cost of demand-side management programs.
- (4) ***Home energy assistance programs may be part of a demand-side management program. In considering a home energy assistance program, the commission shall only utilize the criteria set forth in subsections (1)(f) and (3) of this section.***

Approved March 15, 2001

CHAPTER 12

(HB 300)

AN ACT relating to gubernatorial appointments to university boards of regents.

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

Section 1. KRS 164.321 is amended to read as follows:

- (1) Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University, Northern Kentucky University, and the Kentucky Community and Technical College System shall each be governed by a board of regents appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.
 - (a) Each board of the regional universities shall consist of eight (8) members appointed by the Governor, one (1) member of the teaching faculty, one (1) member of the university nonteaching personnel, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairperson annually.
 - (b) The board of the Kentucky Community and Technical College System shall consist of eight (8) members appointed by the Governor, two (2) members of the teaching faculty, two (2) members of the nonteaching personnel, and two (2) members of the student body.
 1. Four (4) members shall be appointed by the Governor from three (3) nominations for each of four (4) appointments, recommended by the board of trustees of the University of Kentucky. The Governor may request additional nominations at his discretion.
 2. Four (4) members shall be appointed by the Governor from nominations by the Governor's Postsecondary Nominating Committee, under KRS 164.005.
 3. No more than three (3) appointed members of the board shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment.
 4. ~~A[However,]~~ change in residency *of a gubernatorial appointee* after the date of appointment shall not affect the *appointee's* ability to serve. In making initial appointments, the Governor shall act so as to provide equal representation of the two (2) sexes. In filling vacancies, the Governor shall act so as to provide, inasmuch as possible, equal representation of the two (2) sexes by appointing a member of the sex that is the lesser represented at the time of the appointment. If the remaining membership already has an equal number of males and females, the Governor may appoint a member of either sex.
- (2) The terms of appointed members shall be for six (6) years and until their successors are appointed and qualified, except the initial appointments to the board of regents for the Kentucky Community and Technical College System shall be as follows:
 - (a) One (1) member shall serve a one (1) year term;
 - (b) One (1) member shall serve a two (2) year term;
 - (c) Two (2) members shall serve three (3) year terms;
 - (d) One (1) member shall serve a four (4) year term;
 - (e) One (1) member shall serve a five (5) year term; and
 - (f) Two (2) members shall serve six (6) year terms.

New appointees of a board of regents shall not serve for more than two (2) consecutive terms. Board members serving as of May 30, 1997, may be reappointed at the end of their existing terms and may serve two (2) additional full consecutive terms.
- (3) The gubernatorial appointments may include one (1) graduate of the respective institution who resides outside the Commonwealth. Not more than two (2) appointed members of any board shall be residents of one (1) county. The appointments shall reflect the proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration. Membership on the board shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. Membership on the board shall not be incompatible with any state office. ***A change in residency after the date of appointment shall not affect a member's ability to serve nor shall it prevent a member's eligibility for reappointment.***
- (4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

- (5) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.
- (6) (a) The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.
- (b) The faculty members of the Kentucky Community and Technical College System shall be represented by one (1) faculty member elected from the community colleges and one (1) faculty member elected from the technical institutions to serve three (3) year terms and until their successors are named. The faculty representatives of each branch shall be elected by means of a process established by the board. The faculty members may be reelected but shall not serve more than two (2) consecutive terms. A faculty member shall be ineligible to continue to serve as a member of the board if he ceases to be a member of the faculty at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election. These two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member.
- (7) (a) The nonteaching personnel member in a regional university shall be any full-time staff member excluding the president, vice presidents, academic deans, and academic department chairpersons. He shall represent all nonteaching university employees including, but not limited to, building facilities and clerical personnel. He shall be elected by secret ballot by the nonteaching employees. The nonteaching personnel member shall serve a term of three (3) years and until his successor is elected and qualified. The nonteaching personnel member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being an employee of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.
- (b) The nonteaching personnel members in the Kentucky Community and Technical College System shall be any full-time staff member excluding a president, chancellor, vice president, academic dean, academic department chair, or other administrator. They shall represent all nonteaching employees in their respective branch institutions including, but not limited to, support and clerical personnel. One (1) member shall be a representative from the community colleges and one (1) member shall be a representative from the technical institutions. They shall serve three (3) year terms and until their successors are named. These two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member. The nonteaching personnel members of each branch shall be elected by means of a process established by the board. A nonteaching personnel member may be reelected but shall not serve more than two (2) consecutive terms. A nonteaching employee shall be ineligible to continue to serve as a member of the board if that employee ceases to be a nonteaching employee at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.
- (8) (a) The student member on a regional university board shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.
- (b) Two (2) full-time student members shall be elected to the board of regents for the Kentucky Community and Technical College System. One (1) shall represent students of the community colleges and one (1) shall represent the technical institutions. The student members shall be elected by means of a process established by the board. The student members shall serve one (1) year terms beginning with the first meeting of the fiscal year that contains the academic year. If the student member does not maintain his or her status as a full-time student, a special election shall be held to fill the vacancy. The two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member.
- (9) All persons appointed after May 30, 1997, shall be required to attend and complete an orientation program prescribed by the council under KRS 164.020, as a condition of their service.

- (10) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council.
- (11) The initial board of the Kentucky Community and Technical College System shall be appointed by July 31, 1997:
 - (a) By not later than thirty (30) days after May 30, 1997, the Governor's Postsecondary Nominating Committee shall submit nominations to the Governor as set forth in subsection (1) of this section for initial appointments to the board.
 - (b) By June 10, 1997, the board of trustees for the University of Kentucky shall submit nominations to the Governor, as set forth in subsection (1) of this section, for initial appointments to the board. For any subsequent appointment to be made from nominations from the board of trustees, the board of trustees shall forward nominations thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen vacancy. If the Governor needs nominees of a particular sex in order to make an appointment, the board of trustees shall only provide nominees of that sex.

Approved March 15, 2001

CHAPTER 13

(HB 251)

AN ACT relating to foster parents.

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

Section 1. KRS 605.120 is amended to read as follows:

- (1) The cabinet is authorized to expend available funds to provide for the board, lodging, and care of children who would otherwise be placed in foster care or who are placed by the cabinet in a foster home or boarding home, or may arrange for payments or contributions by any local governmental unit, or public or private agency or organization, willing to make payments or contributions for such purpose. The cabinet may accept any gift, devise, or bequest made to it for its purposes.
- (2) The cabinet shall establish a reimbursement system, within existing appropriation amounts, for foster parents that comes as close as possible to meeting the actual cost of caring for foster children. The cabinet shall consider providing additional reimbursement for foster parents who obtain additional training, and foster parents who have served for an extended period of time. In establishing a reimbursement system, the cabinet shall, to the extent possible within existing appropriation amounts, address the additional cost associated with providing care to children with exceptional needs.
- (3) The cabinet shall review reimbursement rates paid to foster parents on a biennial basis and shall issue a report in October of each odd-numbered year to the Legislative Research Commission comparing the rates paid by Kentucky to the figures presented in the Expenditures on Children by Families Annual Report prepared by the United States Department of Agriculture and the rates paid to foster parents by other states. To the extent that funding is available, reimbursement rates paid to foster parents shall be increased on an annual basis to reflect cost of living increases.
- (4) The cabinet is encouraged to develop pilot projects both within the state system and in collaboration with private child caring agencies to test alternative delivery systems and nontraditional funding mechanisms.
- (5) To the extent funds are available, the cabinet may establish a program for kinship care that provides a more permanent placement with a qualified relative for a child that would otherwise be placed in foster care due to abuse, neglect, or death of both parents.
- (6) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provision of subsection (5) of this section. The administrative regulations shall include uniform conditions and requirements regarding:
 - (a) Eligibility requirements for the kinship caregiver and the child;
 - (b) Financial assistance and payment rates; and

- (c) Support services and case management services that may be provided to the kinship caregiver or the child.
- (7) *Foster parents shall have the authority to make decisions regarding haircuts and hairstyles for foster children who are in their care for thirty (30) days or more.*

Approved March 15, 2001

CHAPTER 14

(HB 240)

AN ACT relating to the Proposed Interstate Compact on Licensure of Participants in Live Racing with Pari-mutuel Wagering.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

The Governor of this Commonwealth is authorized and directed to execute a compact on behalf of the Commonwealth with any of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and each territory or possession of the United States, legally joining therein in the form substantially as follows:

ARTICLE I

PURPOSES

SECTION 1. Purposes.

The purposes of this compact are to:

1. *Establish uniform requirements among the party states for the licensing of participants in live racing with pari-mutuel wagering, and ensure that all such participants who are licensed pursuant to this compact meet a uniform minimum standard of honesty and integrity.*
2. *Facilitate the growth of the pari-mutuel racing industry in each party state and nationwide by simplifying the process for licensing participants in live racing, and reduce the duplicative and costly process of separate licensing by the regulatory agency in each state that conducts live racing with pari-mutuel wagering.*
3. *Authorize the Kentucky Racing Commission to participate in this compact.*
4. *Provide for participation in this compact by officials of the party states, and permit those officials, through the compact committee established by this compact, to enter into contracts with governmental agencies and non-governmental persons to carry out the purposes of this compact.*
5. *Establish the compact committee created by this compact as an interstate governmental entity duly authorized to request and receive criminal history record information from the Federal Bureau of Investigation and other state and local law enforcement agencies.*

ARTICLE II

DEFINITIONS

SECTION 2. Definitions.

"Compact committee" means the organization of officials from the party states that is authorized and empowered by this compact to carry out the purposes of this compact.

"Official" means the appointed, elected, designated or otherwise duly selected member of a racing commission or the equivalent thereof in a party state who represents that party state as a member of the compact committee.

"Participants in live racing" means participants in live racing with pari-mutuel wagering in the party states.

"Party state" means each state that has enacted this compact.

"State" means each of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico and each territory or possession of the United States.

ARTICLE III**ENTRY INTO FORCE, ELIGIBLE PARTIES AND WITHDRAWAL****SECTION 3. Entry into force.**

This compact shall come into force when enacted by any four (4) states. Thereafter, this compact shall become effective as to any other state upon both (i) that state's enactment of this compact and (ii) the affirmative vote of a majority of the officials on the compact committee as provided in Section 8.

SECTION 4. States eligible to join compact.

Any state that has adopted or authorized live racing with pari-mutuel wagering shall be eligible to become party to this compact.

SECTION 5. Withdrawal from compact and impact thereof on force and effect of compact.

Any party state may withdraw from this compact by enacting a statute repealing this compact, but no such withdrawal shall become effective until the head of the executive branch of the withdrawing state has given notice in writing of such withdrawal to the head of the executive branch of all other party states. If as a result of withdrawals participation in this compact decreases to less than three (3) party states, this compact no longer shall be in force and effect unless and until there are at least three (3) or more party states again participating in this compact.

ARTICLE IV**COMPACT COMMITTEE****SECTION 6. Compact committee established.**

There is hereby created an interstate governmental entity to be known as the "compact committee," which shall be comprised of one (1) official from the racing commission or its equivalent in each party state who shall be appointed, serve and be subject to removal in accordance with the laws of the party state he represents. Pursuant to the laws of his party state, each official shall have the assistance of his state's racing commission or the equivalent thereof in considering issues related to licensing of participants in live racing and in fulfilling his responsibilities as the representative from his state to the compact committee. If an official is unable to perform any duty in connection with the powers and duties of the compact committee, the racing commission or equivalent thereof from his state shall designate another of its members as an alternate who shall serve in his place and represent the party state as its official on the compact committee until that racing commission or equivalent thereof determines that the original representative official is able once again to perform his duties as that party state's representative official on the compact committee. The designation of an alternate shall be communicated by the affected state's racing commission or equivalent thereof to the compact committee as the committee's bylaws may provide.

SECTION 7. Powers and duties of compact committee.

In order to carry out the purposes of this compact, the compact committee is hereby granted the power and duty to:

- 1. Determine which categories of participants in live horse racing, including but not limited to owners, trainers, jockeys, grooms, mutuel clerks, racing officials, veterinarians, and farriers, and which categories of equivalent participants in dog racing and other forms of live racing with pari-mutuel wagering authorized in two or more of the party states, should be licensed by the committee, and establish the requirements for the initial licensure of applicants in each such category, the term of the license for each category, and the requirements for renewal of licenses in each category. Provided, however, that with regard to requests for criminal history record information on each applicant for a license, and with regard to the effect of a criminal record on the issuance or renewal of a license, the compact committee shall determine for each category of participants in live racing which licensure requirements for that category are, in its judgment, the most restrictive licensure requirements of any party state for that category and shall adopt licensure requirements for that category that are, in its judgment, comparable to those most restrictive requirements.*
- 2. Investigate applicants for a license from the compact committee and, as permitted by federal and state law, gather information on such applicants, including criminal history record information from the Federal Bureau of Investigation and relevant state and local law enforcement agencies, and, where appropriate,*

from the Royal Canadian Mounted Police and law enforcement agencies of other countries, necessary to determine whether a license should be issued under the licensure requirements established by the committee as provided in paragraph 1 above. Only officials on, and employees of, the compact committee may receive and review such criminal history record information, and those officials and employees may use that information only for the purposes of this compact. No such official or employee may disclose or disseminate such information to any person or entity other than another official on or employee of the compact committee. The fingerprints of each applicant for a license from the compact committee shall be taken by the compact committee, its employees, or its designee and, pursuant to Public Law 92-544 or Public Law 100-413, shall be forwarded to a state identification bureau, or to an association of state officials regulating pari-mutuel wagering designated by the Attorney General of the United States, for submission to the Federal Bureau of Investigation for a criminal history record check. Such fingerprints may be submitted on a fingerprint card or by electronic or other means authorized by the Federal Bureau of Investigation or other receiving law enforcement agency.

3. *Issue licenses to, and renew the licenses of, participants in live racing listed in paragraph 1 of this section who are found by the committee to have met the licensure and renewal requirements established by the committee. The compact committee shall not have the power or authority to deny a license. If it determines that an applicant will not be eligible for the issuance or renewal of a compact committee license, the compact committee shall notify the applicant that it will not be able to process his application further. Such notification does not constitute and shall not be considered to be the denial of a license. Any such applicant shall have the right to present additional evidence to, and to be heard by, the compact committee, but the final decision on issuance or renewal of the license shall be made by the compact committee using the requirements established pursuant to paragraph 1 of this section.*
4. *Enter into contracts or agreements with governmental agencies and with non-governmental persons to provide personal services for its activities and such other services as may be necessary to effectuate the purposes of this compact.*
5. *Create, appoint, and abolish those offices, employments, and positions, including an executive director, as it deems necessary for the purposes of this compact, prescribe their powers, duties and qualifications, hire persons to fill those offices, employments and positions, and provide for the removal, term, tenure, compensation, fringe benefits, retirement benefits and other conditions of employment of its officers, employees and other positions.*
6. *Borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association, corporation or other entity.*
7. *Acquire, hold, and dispose of real and personal property by gift, purchase, lease, license, or in other similar manner, in furtherance of the purposes of this compact.*
8. *Charge a fee to each applicant for an initial license or renewal of a license.*
9. *Receive other funds through gifts, grants and appropriations.*

SECTION 8. Voting requirements.

- A. *Each official shall be entitled to one (1) vote on the compact committee.*
- B. *All action taken by the compact committee with regard to the addition of party states as provided in Section 3, the licensure of participants in live racing, and the receipt and disbursement of funds shall require a majority vote of the total number of officials (or their alternates) on the committee. All other action by the compact committee shall require a majority vote of those officials (or their alternates) present and voting.*
- C. *No action of the compact committee may be taken unless a quorum is present. A majority of the officials (or their alternates) on the compact committee shall constitute a quorum.*

SECTION 9. Administration and management.

- A. *The compact committee shall elect annually from among its members a chairman, a vice-chairman, and a secretary/treasurer.*
- B. *The compact committee shall adopt bylaws for the conduct of its business by a two-thirds vote of the total number of officials (or their alternates) on the committee at that time and shall have the power by the same vote to amend and rescind these bylaws. The committee shall publish its bylaws in convenient form and*

shall file a copy thereof and a copy of any amendments thereto with the secretary of state or equivalent agency of each of the party states.

- C. *The compact committee may delegate the day-to-day management and administration of its duties and responsibilities to an executive director and his support staff.*
- D. *Employees of the compact committee shall be considered governmental employees.*

SECTION 10. Immunity from liability for performance of official responsibilities and duties.

No official of a party state or employee of the compact committee shall be held personally liable for any good faith act or omission that occurs during the performance and within the scope of his responsibilities and duties under this compact.

ARTICLE V

RIGHTS AND RESPONSIBILITIES OF EACH PARTY STATE

SECTION 11. Rights and responsibilities of each party state.

A. By enacting this compact, each party state:

1. *Agrees (i) to accept the decisions of the compact committee regarding the issuance of compact committee licenses to participants in live racing pursuant to the committee's licensure requirements, and (ii) to reimburse or otherwise pay the expenses of its official representative on the compact committee or his alternate.*
2. *Agrees not to treat a notification to an applicant by the compact committee under paragraph 3 of Section 7 that the compact committee will not be able to process his application further as the denial of a license, or to penalize such an applicant in any other way based solely on such a decision by the compact committee.*
3. *Reserves the right (i) to charge a fee for the use of a compact committee license in that state, (ii) to apply its own standards in determining whether, on the facts of a particular case, a compact committee license should be suspended or revoked, (iii) to apply its own standards in determining licensure eligibility, under the laws of that party state, for categories of participants in live racing that the compact committee determines not to license and for individual participants in live racing who do not meet the licensure requirements of the compact committee, and (iv) to establish its own licensure standards for the licensure of non-racing employees at pari-mutuel racetracks and employees to separate satellite wagering facilities. Any party state that suspends or revokes a compact committee license shall, through its racing commission or the equivalent thereof or otherwise, promptly notify the compact committee of that suspension or revocation.*

- B. *No party state shall be held liable for the debts or other financial obligations incurred by the compact committee.*

ARTICLE VI

CONSTRUCTION AND SEVERABILITY

SECTION 12. Construction and severability.

This compact shall be liberally construed so as to effectuate its purposes. The provisions of this compact shall be severable, and, if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the Constitution of the United States or of any party state, or the applicability of this compact to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If all or some portion of this compact is held to be contrary to the constitution of any party state, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

Section 2. Section 1 of this Act takes effect upon enactment of the Interstate Compact on Licensure of Participants in Live Racing with Pari-mutuel Wagering, in substantially the form set out in Section 1 of this Act, by no less than four (4) states, as that term is defined in Section 1 of this Act. In making a determination that Section 1 of this Act has come into effect, the Reviser of Statutes may rely on the written representation of the Association of Racing Commissioners, International.

Approved March 15, 2001

CHAPTER 15

(HB 234)

AN ACT relating to the Department of Corrections.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

The department shall maintain a photographic record of each inmate committed to its custody, regardless of where that inmate is housed, and shall update that record once every two (2) years. The photographic record may be taken and stored digitally.

Approved March 15, 2001

CHAPTER 16

(SB 87)

AN ACT relating to reorganization.

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

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.

- (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
- 7. Superintendent of Public Instruction.
- 8. Auditor of Public Accounts.
- II. Program cabinets headed by appointed officers:
 - 1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
 - 2. Education, Arts, and Humanities Cabinet:
 - (a) Department of Education.
 - (1) Kentucky Board of Education.
 - (2) Education Professional Standards Board.
 - (b) Department for Libraries and Archives.
 - (c) Kentucky Arts Council.
 - (d) Kentucky Educational Television.
 - (e) Kentucky Historical Society.
 - (f) Kentucky Teachers' Retirement System Board of Trustees.
 - (g) Kentucky Center for the Arts.
 - (h) Kentucky Craft Marketing Program.
 - (i) Kentucky Commission on the Deaf and Hard of Hearing.
 - (j) Governor's Scholars Program.
 - (k) Governor's School for the Arts.
 - (l) Operations and Development Office.
 - (m) Kentucky Heritage Council.
 - (n) Kentucky African-American Heritage Commission.
 - (o) Board of Directors for the Center for School Safety.
 - 3. Natural Resources and Environmental Protection Cabinet:
 - (a) Environmental Quality Commission.
 - (b) Kentucky Nature Preserves Commission.

- (c) Department for Environmental Protection.
 - (d) Department for Natural Resources.
 - (e) Department for Surface Mining Reclamation and Enforcement.
 - (f) Office of Legal Services.
 - (g) Office of Information Services.
 - (h) Office of Inspector General.
4. Transportation Cabinet:
- (a) Department of Highways.
 - 1. Office of Program Planning and Management.
 - 2. Office of Project Development.
 - 3. Office of Construction and Operations.
 - 4. Office of Intermodal Programs.
 - 5. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Fiscal Management.
 - (e) Department of Rural and Municipal Aid.
 - (f) Department of Human Resources Management.
 - (g) Office of the Secretary.
 - (h) Office of General Counsel and Legislative Affairs.
 - (i) Office of Public Affairs.
 - (j) Office of Transportation Delivery.
 - (k) Office of Minority Affairs.
 - (l) Office of Policy and Budget.
 - (m) Office of Technology.**
 - (n) Office of Quality.**
5. Cabinet for Economic Development:
- (a) Department of Administration and Support.
 - (b) Department for Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department of Community Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
- (a) Public Service Commission.
 - (b) Department of Insurance.
 - (c) Department of Housing, Buildings and Construction.
 - (d) Department of Financial Institutions.

- (e) Department of Mines and Minerals.
 - (f) Department of Public Advocacy.
 - (g) Department of Alcoholic Beverage Control.
 - (h) Kentucky Racing Commission.
 - (i) Board of Claims.
 - (j) Crime Victims Compensation Board.
 - (k) Kentucky Board of Tax Appeals.
 - (l) Backside Improvement Commission.
 - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
 - (n) Department of Charitable Gaming.
7. Cabinet for Families and Children:
- (a) Department for Community Based Services.
 - (b) Department for Disability Determination Services.
 - (c) Public Assistance Appeals Board.
 - (d) Office of the Secretary.
 - (1) Kentucky Commission on Community Volunteerism and Service.
 - (e) Office of the General Counsel.
 - (f) Office of Program Support.
 - (g) Office of Family Resource and Youth Services Centers.
 - (h) Office of Technology Services.
 - (i) Office of the Ombudsman.
 - (j) Office of Performance Enhancement.
8. Cabinet for Health Services.
- (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission on Children with Special Health Care Needs.
 - (e) Office of Certificate of Need.
 - (f) Office of the Secretary.
 - (g) Office of the General Counsel.
 - (h) Office of Program Support.
 - (i) Office of the Inspector General.
 - (j) Office of Aging Services.
9. Finance and Administration Cabinet:
- (a) Office of Legal and Legislative Services.
 - (b) Office of Management and Budget.
 - (c) Office of Financial Management.
 - (d) Office of the Controller.

- (e) Department for Administration.
 - (f) Department of Facilities Management.
 - (g) State Property and Buildings Commission.
 - (h) Kentucky Pollution Abatement Authority.
 - (i) Kentucky Savings Bond Authority.
 - (j) Deferred Compensation Systems.
 - (k) Office of Equal Employment Opportunity Contract Compliance.
 - (l) Office of Capital Plaza Operations.
 - (m) County Officials Compensation Board.
 - (n) Kentucky Employees Retirement Systems.
 - (o) Commonwealth Credit Union.
 - (p) State Investment Commission.
 - (q) Kentucky Housing Corporation.
 - (r) Governmental Services Center.
 - (s) Kentucky Local Correctional Facilities Construction Authority.
 - (t) Kentucky Turnpike Authority.
 - (u) Historic Properties Advisory Commission.
 - (v) Kentucky Kare Health Insurance Authority.
 - (w) Kentucky Tobacco Settlement Trust Corporation.
10. Labor Cabinet:
- (a) Department of Workplace Standards.
 - (b) Department of Workers' Claims.
 - (c) Kentucky Labor-Management Advisory Council.
 - (d) Occupational Safety and Health Standards Board.
 - (e) Prevailing Wage Review Board.
 - (f) Workers' Compensation Board.
 - (g) Kentucky Employees Insurance Association.
 - (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.
 - (j) Kentucky Occupational Safety and Health Review Commission.
 - (k) Office of Administrative Services.
 - (l) Office of Labor-Management Relations and Mediation.
 - (m) Office of General Counsel.
 - (n) Workers' Compensation Funding Commission.
 - (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
 - (b) Department of Tax Administration.

- (c) Office of Financial and Administrative Services.
 - (d) Department of Law.
 - (e) Department of Information Technology.
 - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
- (a) Department of Travel.
 - (b) Department of Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (d) Kentucky Horse Park Commission.
 - (e) State Fair Board.
 - (f) Office of Administrative Services.
 - (g) Office of General Counsel.
13. Cabinet for Workforce Development:
- (a) Department for Adult Education and Literacy.
 - (b) Department for Technical Education.
 - (c) Department of Vocational Rehabilitation.
 - (d) Department for the Blind.
 - (e) Department for Employment Services.
 - (f) State Board for Adult and Technical Education.
 - (g) The State Board for Proprietary Education.
 - (h) The Foundation for Adult Education.
 - (i) Office of Training and Reemployment.
 - (j) Office of General Counsel.
 - (k) Office of Communication Services.
 - (l) Office of Development and Industry Relations.
 - (m) Office of Workforce Analysis and Research.
 - (n) Office for Administrative Services.
 - (o) Office for Policy and Budget.
 - (p) Office of Personnel Services.
 - (q) Unemployment Insurance Commission.
14. Personnel Cabinet:
- (a) Office of Administrative and Legal Services.
 - (b) Department for Personnel Administration.
 - (c) Department for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Kentucky Kare.
 - (f) Division of Performance Management.
 - (g) Division of Employee Records.

- (h) Division of Staffing Services.
- (i) Division of Classification and Compensation.
- (j) Division of Employee Benefits.
- (k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Council on Postsecondary Education.
- 3. Department for Local Government.
- 4. Kentucky Commission on Human Rights.
- 5. Kentucky Commission on Women.
- 6. Department of Veterans' Affairs.
- 7. Kentucky Commission on Military Affairs.
- 8. The Governor's Office for Technology.
- 9. Commission on Small Business Advocacy.

Section 2. KRS 174.020 is amended to read as follows:

(1) The Transportation Cabinet shall consist of the following major organizational units:

- (a) The Office of the Secretary, which shall include, but not be limited to:
 - 1. The secretary to be appointed by the Governor under KRS 12.255; and
 - 2. The deputy secretary appointed under KRS 12.040;
- (b) The Department of Highways, headed by a commissioner, appointed by the Governor under KRS 12.040 on the recommendation of the secretary;
- (c) The Department of Vehicle Regulation, headed by a commissioner, appointed by the secretary with the approval of the Governor, under KRS 12.040;
- (d) The Department of Rural and Municipal Aid, headed by a commissioner appointed by the Governor under KRS 12.040;
- (e) The Department of Fiscal Management, headed by a commissioner appointed by the Governor under KRS 12.040;
- (f) The Department of Administrative Services, headed by a commissioner appointed by the Governor under KRS 12.040;
- (g) The Department of Human Resources Management, headed by a commissioner appointed by the Governor under KRS 12.040;
- (h) The following offices, which shall be attached to the Office of the Secretary:
 - 1. The Office of Public Affairs, headed by an executive director appointed under KRS 12.040;
 - 2. The Office of Policy and Budget, headed by an executive director appointed under KRS 12.040;
 - 3. The Office of Transportation Delivery, headed by an executive director appointed under KRS 12.040;
 - 4. The Office of General Counsel and Legislative Affairs, headed by an executive director appointed under KRS 12.040;
 - 5. The Office of Minority Affairs, headed by an executive director appointed under KRS 12.040;
 - 6. *The Office of Technology, headed by an executive director appointed under KRS 12.040;*
 - 7. *The Office of Quality, headed by an executive director appointed under KRS 12.040;*

(i) The following offices, which shall be attached to the Department of Highways:

1. The Office of Program Planning and Management, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and known as the deputy state highway engineer for program planning and management;
2. The Office of Project Development, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and who shall be known as the deputy state highway engineer for project development;
3. The Office of Construction and Operations, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and who shall be known as the deputy state highway engineer for construction and operations;
4. The Office of Intermodal Programs, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and who shall be known as the deputy state highway engineer for intermodal programs. The Kentucky Airport Zoning Commission established by KRS 183.861 shall be attached to the Division of Aeronautics within the Office of Intermodal Programs for administrative purposes; and
5. Highway District Offices One through Twelve, each district office to be headed by a chief highway district engineer, appointed by the secretary upon the recommendation of the commissioner and the state highway engineer, with the approval of the Governor.

(2) The positions of director in the Division of Fleet Management, Division of Professional Services, and Division of Environmental Analysis are policy-making positions under KRS 18A.175.

Section 3. The General Assembly confirms Executive Order 2000-1105, dated August 23, 2000, relating to the reorganization of the Transportation Cabinet to the extent not otherwise confirmed by this Act.

Approved March 15, 2001

CHAPTER 17

(HB 172)

AN ACT relating to reorganization.

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

Section 1. KRS 311.6521 is amended to read as follows:

As used in KRS 311.652 to 311.658, unless the context otherwise requires:

- (1) "Ambulance" means a vehicle which has been inspected and approved by the board, including a helicopter or fixed wing aircraft, except vehicles or aircraft operated by the United States government, that are specially designed, constructed, or have been modified or equipped with the intent of using the same, for the purpose of transporting any individual who is sick, injured, or otherwise incapacitated who may require immediate stabilization and continued medical response and intervention during transit or upon arrival at the patient's destination to safeguard the patient's life or physical well-being;
- (2) "Ambulance provider" means any individual or private or public organization, except the United States government, who is licensed by the Kentucky Board of Emergency Medical Services to provide medical transportation services as either basic life support or advanced life support and who may have a vehicle or vehicles, including ground vehicles, helicopters, or fixed-wing aircraft. An ambulance provider may be licensed as an air ambulance provider, as a Class I ground ambulance provider, as a Class II ground ambulance provider, or as a Class III ground ambulance provider;
- (3) "Board" means the Kentucky Board of Emergency Medical Services;
- (4) ~~"Department" means the Department for Public Health;~~
- (5) "Emergency medical facility" means a hospital, trauma center, or any other institution licensed by the Cabinet for Health Services that furnishes emergency medical services;

- ~~(5)(6)~~ "Emergency medical services" means the services utilized in responding to the perceived individual need for immediate medical care to protect against loss of life, or aggravation of physiological or psychological illness or injury;
- ~~(6)(7)~~ "Emergency Medical Services for Children Program" or "EMSC Program" means the program established under KRS 311.6526;
- ~~(7)(8)~~ "Emergency medical services personnel" means persons, including physicians, certified or licensed, and trained to provide emergency medical services, whether on a paid or volunteer basis, as part of basic life support, advanced life support, or prehospital services;
- ~~(8)(9)~~ "Emergency medical services system" means a coordinated system of health-care delivery that responds to the needs of acutely sick and injured adults and children, and includes community education and prevention programs, centralized access and emergency medical dispatch, communications networks, trained emergency medical services personnel, medical first response, ground and air ambulance services, trauma care systems, mass casualty management, medical direction, and quality control and system evaluation procedures;
- ~~(9)(10)~~ "Emergency medical technician" or "EMT" means a person certified under KRS 311.652 to 311.658 as an EMT-first responder, EMT-basic, EMT-basic instructor, EMT-instructor trainer, or EMT-first responder instructor;
- ~~(10)(11)~~ "Medical director" means a physician licensed in Kentucky who is employed by, under contract to, or has volunteered to serve as the medical director of a licensed ambulance service;
- ~~(11)(12)~~ "Paramedic" means a person who is primarily involved in the delivery of emergency medical services and is licensed under KRS 311.652 to 311.658;
- ~~(12)(13)~~ "Prehospital care" means the provision of emergency medical services or transportation by trained and certified or licensed emergency medical services personnel at the scene of an emergency or while transporting sick or injured persons to a hospital or other emergency medical facility;
- ~~(13)(14)~~ "Regional emergency medical services system" means a system approved by the Kentucky Board of Emergency Medical Services which provides for the arrangement of personnel, facilities, equipment, or any of the above, for the effective and coordinated delivery of health-care services in an appropriate geographical area;
- ~~(14)(15)~~ "Trauma" means a single or multisystem life-threatening or limb-threatening injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability; and
- ~~(15)(16)~~ "Trauma care system" means a subsystem within the emergency medical services system consisting of an organized arrangement of personnel, equipment, and facilities designed to manage the treatment of the trauma patient.

Section 2. KRS 311.6523 is amended to read as follows:

- (1) The Kentucky Board of Emergency Medical Services is created and shall consist of sixteen (16) members who are residents of Kentucky appointed by the Governor in conjunction with recognized state emergency medical services related organizations. Membership shall be made up of the following:
- (a) One (1) paramedic who works for a government agency but is not serving in an educational, management, or supervisory capacity;
 - (b) One (1) emergency medical technician-basic who works for a government agency but is not serving in an educational, management, or supervisory capacity;
 - (c) One (1) emergency medical technical-first responder who is not serving in an educational, management, or supervisory capacity;
 - (d) One (1) physician licensed in Kentucky having a primary practice in the delivery of emergency medical care selected from a list of three (3) physicians submitted by the Kentucky Medical Association;
 - (e) One (1) physician licensed in Kentucky serving as medical director of an advanced life support ambulance service, selected from a list of three (3) physicians submitted by the Kentucky Medical Association;

- (f) One (1) physician licensed in Kentucky who is routinely involved in the emergency care of ill and injured children selected from a list of three (3) physicians submitted by the Kentucky Medical Association;
 - (g) One (1) trauma surgeon licensed in Kentucky selected from a list of three (3) physicians submitted by the Kentucky Medical Association;
 - (h) One (1) citizen having no involvement in the delivery of medical or emergency services;
 - (i) One (1) emergency medical services educator from a Kentucky college or university that provides an emergency medical services educational program;
 - (j) One (1) mayor of a city that operates, either directly or through contract services, a licensed Class I ground ambulance service;
 - (k) One (1) county judge/executive from a county that operates, whether directly or through contract services, a licensed Class I ground ambulance service;
 - (l) One (1) volunteer-staffed, licensed Class I ground ambulance service administrator who is a certified emergency medical technician or a licensed paramedic;
 - (m) One (1) fire-service-based, licensed Class I ground ambulance service administrator who is a certified emergency medical technician or a licensed paramedic;
 - (n) One (1) hospital administrator selected from a list of five (5) nominees submitted by the Kentucky Hospital Association;
 - (o) One (1) basic life support, licensed Class I government-operated ground ambulance service administrator who is a certified emergency medical technician or a licensed paramedic; and
 - (p) One (1) advanced life support, government-operated ambulance service administrator who is a certified emergency medical technician or a licensed paramedic.
- (2) No board member shall serve more than two (2) consecutive terms.
 - (3) The board shall elect a chair by majority vote of the members present at its first annual meeting.
 - (4) The board shall adopt a quorum and rules of procedure by administrative regulation.
 - (5) A member of the board who misses three (3) meetings in one (1) year shall be deemed to have resigned from the board and his or her position shall be deemed vacant. The person removed under this subsection shall not be reappointed to the board for ten (10) years. The year specified in this subsection shall begin with the first meeting missed and end three hundred sixty-five (365) days later or with the third meeting missed, whichever occurs earlier. The Governor shall appoint a person of the same class to fill the vacancy within ninety (90) days.
 - (6) Members of the board and of all committees shall be entitled to reimbursement for actual and necessary expenses when carrying out official duties of the board in accordance with state administrative regulations relating to travel reimbursement. The board shall meet at least six (6) times each year.
 - (7) The board shall:
 - (a) Exercise all of the administrative functions of the state in the regulation of the emergency medical services system and the practice of first responders, emergency medical technicians, paramedics, ambulance services, and training institutions;
 - (b) Issue, deny, suspend, limit, restrict, and revoke any licenses or certifications, and reprimand or place an individual with a license or certificate on probation;
 - (c) ***Oversee the operations and establish the organizational structure of the Office of the Kentucky Board of Emergency Medical Services, which is created and shall be attached to the board for administrative purposes. The office shall be headed by the executive director appointed under paragraph (d) of this subsection and shall be responsible for:***
 - 1. Personnel and budget matters affecting the board;***
 - 2. Fiscal activities of the board including grant writing and disbursement of funds;***

3. *Information technology, including the design and maintenance of databases;*
 4. *Certification and recertification of emergency medical technicians;*
 5. *Licensure and relicensure of ambulances and ambulance services;*
 6. *Licensure and relicensure of paramedics;*
 7. *Resolution of quality complaints and ethics issues; and*
 8. *Other responsibilities that may be assigned by the executive director and the board;*
- (d) Appoint an executive director and fix the compensation. The executive director shall serve at the pleasure of the board, administer the day-to-day operations of the **Office of the Kentucky Board of Emergency Medical Services**~~[agency]~~, and supervise all directives of the board. The director shall possess a baccalaureate degree and shall have no less than five (5) years of experience in public administration or in the administration of an emergency medical services program;
- ~~(e)~~~~(d)~~ Appoint or contract with a physician who is board certified in emergency medicine and fix the compensation. The physician shall serve as the medical advisor to the Kentucky Board of Emergency Medical Services and the staff of the board;
- ~~(f)~~~~(e)~~ Appoint a general counsel and fix the compensation;
- ~~(g)~~~~(f)~~ Employ personnel sufficient to carry out the statutory responsibilities of the board.
1. Personnel assigned to regulate or support the emergency medical technician first responder program shall be certified emergency medical technician first responders or emergency medical technicians.
 2. Personnel assigned to regulate or support the emergency medical technician program shall be certified emergency medical technicians or paramedics.
 3. Personnel assigned to regulate or support the paramedic program shall be licensed paramedics.
 4. Personnel in purely clerical roles need not be certified in the manner specified in this section;
- ~~(h)~~~~(g)~~ Establish committees and subcommittees, who need not be members of the board, as necessary;
- ~~(i)~~~~(h)~~ Collect any fees established by the promulgation of administrative regulations;
- ~~(j)~~~~(i)~~ Investigate and hold hearings for any disciplinary proceedings in accordance with KRS Chapter 13B;
- ~~(k)~~~~(j)~~ Establish and impose fines against individuals or agencies governed by the board;
- ~~(l)~~~~(k)~~ Enter into contracts, apply for grants and federal funds, and disburse funds to local units of government as approved by the General Assembly;
- ~~(m)~~~~(l)~~ Maintain a program and provide technical assistance for the planning, development, improvement, and expansion of emergency medical services systems and trauma care systems throughout the state;
- ~~(n)~~~~(m)~~ Collect and analyze data for evaluation of emergency medical services in the Commonwealth;
- ~~(o)~~~~(n)~~ Administer the Emergency Medical Services for Children Program; and
- ~~(p)~~~~(o)~~ Establish minimum curriculum and standards for emergency medical services training.
- (8) The board may utilize materials, services, or facilities as may be made available to it by other state agencies or may contract for materials, services, or facilities.

Section 3. To the extent that Executive Order 2000-1625 is not otherwise confirmed by this Act, the General Assembly hereby confirms Executive Order 2000-1625, issued by the Governor on December 29, 2000, which created the Office of the Kentucky Board of Emergency Medical Services and transferred responsibility for administration of emergency medical services laws to the Board from the Cabinet for Health Services, Department of Public Health.

Approved March 15, 2001

CHAPTER 18**(SB 86)**

AN ACT relating to reorganization.

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

Section 1. The following KRS section is repealed:

149.005 Kentucky Forest Resource Council.

Section 2. All records, files, equipment, and funds of the Kentucky Forest Resource Council shall be transferred to the Division of Forestry in the Department for Natural Resources, Natural Resources and Environmental Protection Cabinet in accordance with Executive Order 2000-1103.

Section 3. The General Assembly confirms Executive Order 2000-1103, dated August 23, 2000, to the extent it is not otherwise confirmed by this Act.

Approved March 15, 2001

CHAPTER 19**(HB 233)**

AN ACT relating to guardians, conservators, and limited conservators and declaring an emergency.

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

Section 1. KRS 387.710 is amended to read as follows:

- (1) Within sixty (60) days of appointment, the limited conservator or conservator shall file with the court a verified inventory of all the property of the ward which has come to his possession or knowledge, including a statement of all encumbrances, liens, and other secured claims on any item, any claims against the estate of the ward, and any cause of action accruing to the ward. The limited conservator or conservator shall provide a copy thereof to the ward if he has sufficient mental capacity to understand it.
- (2) (a) A limited conservator or conservator shall file with the court a verified report and financial account biennially within one hundred twenty (120) days after the anniversary date of his appointment. The report shall contain:
 1. The present personal status of the ward whose estate is managed by the conservator;
 2. The conservator's plan for preserving and maintaining the estate of which he has control or supervision;
 3. The need for continuation or cessation of the conservatorship; and
 4. The need for any alteration in the powers of the conservatorship.
- (b) The biennial report shall specify the amount and type of real and personal property received by the conservator and remaining in his control or invested by him, the nature of such investment, and expenditures made during the preceding year. Upon request of the court, the conservator shall produce for examination any information or documentation which the court may consider relevant to the accounting of the financial and property transactions of the estate.
- (c) If the ward has no real property and possesses personal property of ***two thousand five hundred dollars (\$2,500)***~~fifteen hundred dollars (\$1,500)~~ or less for any year during the biennial report, the guardian, conservator, or limited conservator may file an informal biennial financial report attesting to the identity of the ward's financial account and its current balance. If the balance does not exceed ***two thousand five hundred dollars (\$2,500)***~~fifteen hundred dollars (\$1,500)~~ for any year of the biennial report, the guardian, conservator, or limited conservator shall not be required to render to the court a detailed accounting of the expenditures from the fund, unless the court, on its own motion or that of any interested party or individual, deems it necessary to order the guardian, conservator, or limited

conservator to provide a detailed biennial accounting, including the listing of all expenditures for that reporting period. For guardians filing an informal biennial financial report, the provisions of subsection (2)(a)2. of this section shall not apply.

- (3) Upon the resignation, removal, or death of a limited conservator or conservator, or on the termination of the conservatorship, the limited conservator or conservator, or his personal representative, shall forthwith submit a final report and account to the court and to the former ward and to the successor limited conservator or conservator, or, if the ward is deceased, to his personal representative, and shall pay over the trust estate to the person entitled thereto. Upon approval of the report and account, the limited conservator or conservator shall be discharged and his surety, if any, released.

Section 2. Whereas the current reporting requirements found in KRS 387.710(2) work a hardship on the judicial system, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved March 15, 2001

CHAPTER 20

(HB 186)

AN ACT relating to trust and agency accounts.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

- (1) *There is hereby established in the State Treasury a separate trust and agency account to be known as the "Agriculture Promotion Fund" to be administered by the Department of Agriculture for the purposes provided in this section. Any moneys accruing to this fund in any fiscal year shall not lapse but shall be carried forward to the next fiscal year.*
- (2)
 - (a) *Any moneys deposited in the fund shall be used to purchase materials to promote agriculture in the Commonwealth;*
 - (b) *Any moneys received from the sale of promotional materials shall be deposited in the fund; and*
 - (c) *The fund may receive state appropriations, gifts, grants, and federal funds.*

Approved March 15, 2001

CHAPTER 21

(HB 113)

AN ACT relating to trusts and estates.

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

Section 1. KRS 395.625 is amended to read as follows:

Not less than ten (10) days prior to the date of hearing, the clerk shall cause notice of the filing of a settlement to be published pursuant to KRS Chapter 424, stating the name of the fiduciary, the trust, the nature of the account and the date of hearing, with a statement that exceptions must be filed before that time; except that with the court's approval the fiduciary may, in lieu of such publication, send a written notice thereof to all unpaid creditors and distributees, which notice shall be mailed at least ten (10) days before said date of hearing. The fiduciary in such cases shall file his affidavit that such notice has been mailed. The actual cost of the notice, or the proportionate part thereof, if more than one (1) settlement, shall be taxed as costs. *If the value of the trust or estate is not more than two thousand five hundred dollars (\$2,500) and the assets of the trust or estate are held in an account that may be accessed only upon order of the court, the provisions of this section shall not apply to settlements involving that trust or estate.*

Approved March 15, 2001

CHAPTER 22**(HCR 56)**

A CONCURRENT RESOLUTION confirming the appointment of Susan G. Harkins to the Kentucky Agricultural Development Board.

WHEREAS, KRS 248.707 requires the Governor to appoint members to the Agricultural Development Board subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on July 6, 2000, by Executive Order 2000-875, the Governor appointed Susan G. Harkins to the Agricultural Development Board for a term expiring July 6, 2003; and

WHEREAS, Susan G. Harkins meets the requirements of KRS 248.707, being an active farmer and from a county where tobacco income is a substantial proportion of total personal income in the county, who has experience in agricultural diversification, and who otherwise meets the requirements of KRS 11.160;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. Consent is given to the appointment of Susan G. Harkins to the Agricultural Development Board for a term to expire on July 6, 2003.

Section 2. The Clerk of the House of Representatives shall forward a copy of this resolution and notification of its adoption to Susan G. Harkins, 4954 Paris Pike, Lexington, Kentucky 40511 and to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

Approved March 15, 2001

CHAPTER 23**(SCR 2)**

A CONCURRENT RESOLUTION directing a study of the Advanced Placement Program in Kentucky's high schools.

WHEREAS, since 1990 Kentucky has made a monumental effort to improve its public schools so that all students in the Commonwealth have the opportunity to achieve at the highest levels; and

WHEREAS, the Advanced Placement Program provides opportunities for students to achieve at higher levels and become competitive with students across the nation; and

WHEREAS, in 1999 only sixty-seven percent (67%) of Kentucky's public high schools offered Advanced Placement courses; and

WHEREAS, national statistics show that fewer Kentucky students take the Advanced Placement exams; and

WHEREAS, it is critical that every qualified student have the opportunity to participate in Advanced Placement courses; and

WHEREAS, Kentucky has a new opportunity to expand its Advanced Placement programs through the Kentucky Virtual High School particularly to students in small high schools;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That the Interim Joint Committee on Education establish a special subcommittee composed of four (4) members of the Senate and four (4) members of the House of Representatives to study Kentucky's Advanced Placement Program. The subcommittee shall be co-chaired by one (1) member of the Senate and one (1) member of

the House of Representatives. The members and the co-chairs shall be appointed by the co-chairs of the Interim Joint Committee on Education, subject to approval by the Legislative Research Commission.

Section 2. The subcommittee appointed to study the Advanced Placement Program shall review the current status of the program and recommend an implementation plan that will provide Advanced Placement courses to all qualified students across the state, establish a reasonable timeline, and outline the necessary resources needed for full implementation. The subcommittee shall present its implementation plan and recommendations to the Interim Joint Committee on Education by September 1, 2001.

Section 3. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and designate a study completion date.

Approved March 15, 2001

CHAPTER 24

(HCR 58)

A CONCURRENT RESOLUTION confirming the appointment of Larry Clay to the Kentucky Agricultural Development Board.

WHEREAS, KRS 248.707 requires the Governor to appoint members to the Agricultural Development Board subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on July 6, 2000, by Executive Order 2000-875, the Governor appointed Larry Clay to the Agricultural Development Board for a term expiring July 6, 2004; and

WHEREAS, Larry Clay meets the requirements of KRS 248.707, being an active farmer who otherwise meets the requirements of KRS 11.160;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. Consent is given to the appointment of Larry Clay to the Agricultural Development Board for a term to expire on July 6, 2004.

Section 2. The Clerk of the House of Representatives shall forward a copy of this resolution and notification of its adoption to Larry Clay, P.O. Box 128, Chavies, Kentucky 41727 and to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

Approved March 15, 2001

CHAPTER 25

(SB 71)

AN ACT relating to the inclusion of students enrolled in a Congressional Page School or in a foreign exchange high school program under the Kentucky Educational Excellence Scholarship program.

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

Section 1. KRS 164.7879 is amended to read as follows:

- (1) Kentucky educational excellence scholarship awards shall be based upon an established base scholarship amount and an eligible high school student's grade point average. The base scholarship amount for students attaining a grade point average of at least 2.5 for the 1998-1999 academic year shall be as follows:

GPA	Amount	GPA	Amount
2.50	\$125.00	3.30	\$325.00
2.60	\$150.00	3.40	\$350.00
2.70	\$175.00	3.50	\$375.00

2.75	\$187.00	3.60	\$400.00
2.80	\$200.00	3.70	\$425.00
2.90	\$225.00	3.75	\$437.00
3.00	\$250.00	3.80	\$450.00
3.10	\$275.00	3.90	\$475.00
3.20	\$300.00	4.00	\$500.00
3.25	\$312.00		

The council shall review the base amount of the Kentucky educational excellence scholarship beginning with the 1999-2000 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (2) (a) The authority shall commit to provide to each eligible high school student the base amount of the Kentucky educational excellence scholarship for each academic year of high school study in the Kentucky educational excellence scholarship curriculum that the high school student has attained at least a 2.5 grade point average. The award shall be based upon the eligible high school student's grade point average at the close of each academic year. An award attributable to a past academic year shall not be increased after the award has been earned by an eligible high school student, regardless of any subsequent increases made to the base amount of the Kentucky educational excellence scholarship through the promulgation of an administrative regulation by the council.
- (b) *Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874, any high school student who maintains Kentucky residency and completes the academic courses that are required for a Kentucky educational excellence scholarship while participating in an approved educational high school foreign exchange program or participating in the United States Congressional Page School may apply his or her grade point average for that academic year toward the base as described in paragraph (a) of this subsection. The grade point average shall be reported by the student's Kentucky home high school, based on an official transcript from the school that the student attended during the out-of-state educational experience. The council shall promulgate administrative regulations that describe the approval process for the educational exchange programs that qualify under this paragraph. The provisions in this paragraph shall likewise apply to any Kentucky high school student who participated in an approved educational exchange program or in a Congressional Page School since the 1998-99 school year and maintained his or her Kentucky residency throughout.*
- (3) (a) The authority shall commit to provide to each eligible high school student graduating from high school before June 30, 1999, and achieving a score of at least 15 on the American College Test, a supplemental award for the award period beginning in the fall of 1999, based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT	Annual	ACT	Annual
Score	Bonus	Score	Bonus
15	\$21	22	\$171
16	\$43	23	\$193
17	\$64	24	\$214
18	\$86	25	\$236
19	\$107	26	\$257
20	\$129	27	\$279
21	\$150	28 or above	\$300

Subsequent supplemental awards for eligible high school students graduating before June 30, 1999, shall be determined in accordance with the provisions of paragraph (b) of this subsection.

- (b) The authority shall commit to provide to each eligible high school student upon achievement after June 30, 1999, of an ACT score of at least 15 on the American College Test a supplemental award based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT		ACT	
Score	Amount	Score	Amount
15	\$36	22	\$286
16	\$71	23	\$321
17	\$107	24	\$357
18	\$143	25	\$393
19	\$179	26	\$428
20	\$214	27	\$464
21	\$250	28 and above	\$500

The council shall review the base amount of the supplemental award beginning with the 2001-2002 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (c) The council shall promulgate administrative regulations establishing the eligibility criteria and procedures for making a supplemental award to Kentucky residents who are citizens, nationals, or permanent residents of the United States and who graduate from a nonpublic secondary school not certified by the Kentucky Board of Education and Kentucky residents who are citizens, nationals, or permanent residents of the United States and who obtain a General Educational Development (GED) diploma within five (5) years of their high school graduating class.

Approved March 15, 2001

CHAPTER 26

(SB 13)

AN ACT relating to the Kentucky Spinal Cord and Head Injury Research Board.

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

Section 1. KRS 211.500 is amended to read as follows:

- (1) The Kentucky Spinal Cord and Head Injury Research Board is hereby created for the purpose of administering the spinal cord and head injury research trust fund created pursuant to KRS 211.504. The board shall be composed of seven (7) members appointed by the Governor as follows:
 - (a) Two (2) members representing the University of Kentucky College of Medicine;
 - (b) Two (2) members representing the University of Louisville School of Medicine;
 - (c) One (1) member who has a spinal cord or head injury or who has a family member with a spinal cord or head injury;
 - (d) One (1) member representing the Kentucky Medical Association; and
 - (e) One (1) at-large member.
- (2) Board members shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred in the performance of duties incident to the provisions of KRS 211.500 to 211.504.
- (3) The terms of board members shall be four (4) years, except that of the members appointed after July 15, 1998, two (2) members appointed to fill the terms ending on June 30, 1999, shall serve until January 31, 2000; two (2) members appointed to fill the terms expiring on June 30, 2000, shall serve until January 31, 2001; two (2) members appointed to fill the terms expiring on June 30, 2001, shall serve until January 31, 2002; and one (1)

member appointed to fill the term expiring June 30, 2002, shall serve until January 31, 2003; and subsequent appointments shall be for four (4) year terms ending on January 31.

- (4) At the end of a term, a member shall continue to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed and qualifies. A member *may serve two (2) or more* ~~who serves (2)~~ consecutive full four (4) year terms *at the discretion of the Governor* ~~shall not be reappointed for four (4) years after completion of those terms~~.
- (5) A majority of the full authorized membership of the board shall constitute a quorum.
- (6) The board shall elect, by a majority vote, a chairman who shall be the presiding officer of the board, preside at all meetings, and coordinate the functions and activities of the board. The chairman shall be elected or reelected for each calendar year. The board shall have such other organization as deemed necessary and approved by the board.
- (7) Meetings of the board shall be held at least twice a year but may be held more frequently as deemed necessary, subject to call by the chairman or by request of a majority of the board members. Board meetings shall concern, among other things, policy matters relating to spinal cord and head injury research projects and programs, research progress reports, authorization of projects and financial plans, and other matters necessary to carry out the intent of KRS 211.500 to 211.504.
- (8) No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.
- (9) The board shall be attached to the Cabinet for Health Services for administrative purposes.

Approved March 15, 2001

CHAPTER 27

(HB 86)

AN ACT relating to reorganization.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act, unless the context indicates otherwise:

- (1) *"Board" means the board of directors of the Eastern Kentucky Exposition Center Corporation;*
- (2) *"Center" means the Eastern Kentucky Exposition Center; and*
- (3) *"Corporation" means the Eastern Kentucky Exposition Center Corporation.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *The Eastern Kentucky Exposition Center Corporation is created and established as an independent, de jure municipal corporation and political subdivision of the Commonwealth that shall be a public body corporate and politic. The corporation shall develop, operate, and manage the Eastern Kentucky Exposition Center funded by 2000 Ky. Acts ch. 549, Part II, Section F, Item 1(e) and Part II, Section S, Item 2(a)236. The corporation shall be attached to the Finance and Administration Cabinet for administrative purposes.*
- (2) *The corporation shall be a participating agency in the Kentucky Employees Retirement System. Its employees shall be considered state employees for the purpose of participating in the Kentucky Employees Retirement System and shall be entitled to the requirements and benefits provided to other system participants.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *The corporation shall be governed by a board of directors consisting of seven (7) members appointed by the Governor. Initial appointments shall be for a term expiring November 1, 2003. Thereafter, members shall serve terms of four (4) years beginning November 1, 2003. After a membership term expires, members shall serve until new members are appointed to replace them.*

- (2) *A member may be removed by the Governor for misfeasance or malfeasance and after being afforded notice, an opportunity for a hearing under KRS Chapter 13B, and a finding of facts. A copy of charges, transcripts of the records of hearings, and findings of fact shall be filed with the Secretary of State.*
- (3) *Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary travel expenses incurred in the performance of their duties. The reimbursement shall be in accordance with administrative regulations promulgated under KRS Chapter 13A by the Finance and Administration Cabinet.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *The board may develop articles of incorporation and appropriate documentation to establish its existence as a corporation under KRS 58.180.*
- (2) *A quorum of the board shall consist of four (4) members, with a majority of members present authorized to act upon any matter legally before the corporation.*
- (3) *The board may enact bylaws concerning the election of officers and other administrative procedures it deems necessary.*
- (4) *The board may adopt administrative regulations under KRS Chapter 13A to govern the operation, maintenance, or use of property under its custody and control.*
- (5) *Minutes and records of all meetings of the board shall be kept, and all official actions shall be recorded.*
- (6) *The board may establish an executive committee from among its membership with full authority to act between meetings of the board to the extent delegated by vote of a majority of the members of the board.*
- (7) *The board may employ a full-time executive director who shall hold office at its pleasure.*
 - (a) *The executive director shall act under the direction of the board in employing necessary staff to perform the corporation's duties and exercise its powers.*
 - (b) *The executive director shall keep all minutes, records, and orders of the corporation and shall be responsible for the preservation of all the documents, which shall be public records under KRS 61.870 to 61.884.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The Eastern Kentucky Exposition Center Corporation shall have the following powers and duties:

- (1) *The corporation shall supervise the design, construction, and operation of the Eastern Kentucky Exposition Center and shall provide all management functions for the facility and for any other property acquired or leased in accordance with its powers established in this section.*
- (2) *The corporation shall promote the growth and development of the convention, trade, tourism, hotel, restaurant, and entertainment industry in eastern Kentucky, Pike County, and the Commonwealth through utilization of the center.*
- (3) *The corporation shall have the exclusive control of all exhibitions, performances, and concessions in the Eastern Kentucky Exposition Center. The corporation shall have a prior lien upon the property of any private exhibitor, concessionaire, or other person holding an exhibition or performance or operating a concession in the center and may sell the property upon ten (10) days' notice to satisfy any indebtedness.*
- (4) *The corporation shall participate with local hotels and the travel industry to develop tourist packages and additional services to attract conferences and conventions to the region.*
- (5) *The corporation may take, acquire, and hold property, and all interests therein, by deed, purchase, gift, devise, bequest, or lease or by transfer from the State Properties and Buildings Commission and may dispose of any property so acquired in any manner provided by law.*
- (6) *The corporation may levy a surcharge on tickets for functions held within the center to contribute to operating revenue.*
- (7) *The corporation may sue and be sued and maintain and defend legal actions in its corporate name.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *All revenues derived by the corporation from the use of Eastern Kentucky Exposition Center, all contributions to the center from other sources, and any revenues derived by the corporation from any other source shall be used solely for the expenses of the center, including payment on debt; the cost of management and operation of its facilities; the creation of an adequate reserve for repair, replacement, debt service, and capital improvements; the procurement of insurance; and promotional activities.*
- (2) *The Auditor of Public Accounts shall conduct an annual audit of all funds of the corporation and its affiliated entities, if any, and report annually to the Governor and the Legislative Research Commission.*

Section 7. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.

- (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
- (a) Department of Education.
 - (1) Kentucky Board of Education.
 - (2) Education Professional Standards Board.
 - (b) Department for Libraries and Archives.
 - (c) Kentucky Arts Council.
 - (d) Kentucky Educational Television.
 - (e) Kentucky Historical Society.
 - (f) Kentucky Teachers' Retirement System Board of Trustees.
 - (g) Kentucky Center for the Arts.
 - (h) Kentucky Craft Marketing Program.
 - (i) Kentucky Commission on the Deaf and Hard of Hearing.
 - (j) Governor's Scholars Program.
 - (k) Governor's School for the Arts.
 - (l) Operations and Development Office.
 - (m) Kentucky Heritage Council.
 - (n) Kentucky African-American Heritage Commission.
 - (o) Board of Directors for the Center for School Safety.
3. Natural Resources and Environmental Protection Cabinet:
- (a) Environmental Quality Commission.
 - (b) Kentucky Nature Preserves Commission.
 - (c) Department for Environmental Protection.
 - (d) Department for Natural Resources.
 - (e) Department for Surface Mining Reclamation and Enforcement.
 - (f) Office of Legal Services.
 - (g) Office of Information Services.
 - (h) Office of Inspector General.
4. Transportation Cabinet:
- (a) Department of Highways.
 - 1. Office of Program Planning and Management.
 - 2. Office of Project Development.
 - 3. Office of Construction and Operations.
 - 4. Office of Intermodal Programs.
 - 5. Highway District Offices One through Twelve.

- (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Fiscal Management.
 - (e) Department of Rural and Municipal Aid.
 - (f) Department of Human Resources Management.
 - (g) Office of the Secretary.
 - (h) Office of General Counsel and Legislative Affairs.
 - (i) Office of Public Affairs.
 - (j) Office of Transportation Delivery.
 - (k) Office of Minority Affairs.
 - (l) Office of Policy and Budget.
5. Cabinet for Economic Development:
- (a) Department of Administration and Support.
 - (b) Department for Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department of Community Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
- (a) Public Service Commission.
 - (b) Department of Insurance.
 - (c) Department of Housing, Buildings and Construction.
 - (d) Department of Financial Institutions.
 - (e) Department of Mines and Minerals.
 - (f) Department of Public Advocacy.
 - (g) Department of Alcoholic Beverage Control.
 - (h) Kentucky Racing Commission.
 - (i) Board of Claims.
 - (j) Crime Victims Compensation Board.
 - (k) Kentucky Board of Tax Appeals.
 - (l) Backside Improvement Commission.
 - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
 - (n) Department of Charitable Gaming.
7. Cabinet for Families and Children:
- (a) Department for Community Based Services.
 - (b) Department for Disability Determination Services.
 - (c) Public Assistance Appeals Board.
 - (d) Office of the Secretary.

- (1) Kentucky Commission on Community Volunteerism and Service.
 - (e) Office of the General Counsel.
 - (f) Office of Program Support.
 - (g) Office of Family Resource and Youth Services Centers.
 - (h) Office of Technology Services.
 - (i) Office of the Ombudsman.
 - (j) Office of Performance Enhancement.
8. Cabinet for Health Services.
- (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission on Children with Special Health Care Needs.
 - (e) Office of Certificate of Need.
 - (f) Office of the Secretary.
 - (g) Office of the General Counsel.
 - (h) Office of Program Support.
 - (i) Office of the Inspector General.
 - (j) Office of Aging Services.
9. Finance and Administration Cabinet:
- (a) Office of Legal and Legislative Services.
 - (b) Office of Management and Budget.
 - (c) Office of Financial Management.
 - (d) Office of the Controller.
 - (e) Department for Administration.
 - (f) Department of Facilities Management.
 - (g) State Property and Buildings Commission.
 - (h) Kentucky Pollution Abatement Authority.
 - (i) Kentucky Savings Bond Authority.
 - (j) Deferred Compensation Systems.
 - (k) Office of Equal Employment Opportunity Contract Compliance.
 - (l) Office of Capital Plaza Operations.
 - (m) County Officials Compensation Board.
 - (n) Kentucky Employees Retirement Systems.
 - (o) Commonwealth Credit Union.
 - (p) State Investment Commission.
 - (q) Kentucky Housing Corporation.
 - (r) Governmental Services Center.
 - (s) Kentucky Local Correctional Facilities Construction Authority.

- (t) Kentucky Turnpike Authority.
 - (u) Historic Properties Advisory Commission.
 - (v) Kentucky Kare Health Insurance Authority.
 - (w) Kentucky Tobacco Settlement Trust Corporation.
 - (x) ***Eastern Kentucky Exposition Center Corporation.***
10. Labor Cabinet:
- (a) Department of Workplace Standards.
 - (b) Department of Workers' Claims.
 - (c) Kentucky Labor-Management Advisory Council.
 - (d) Occupational Safety and Health Standards Board.
 - (e) Prevailing Wage Review Board.
 - (f) Workers' Compensation Board.
 - (g) Kentucky Employees Insurance Association.
 - (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.
 - (j) Kentucky Occupational Safety and Health Review Commission.
 - (k) Office of Administrative Services.
 - (l) Office of Labor-Management Relations and Mediation.
 - (m) Office of General Counsel.
 - (n) Workers' Compensation Funding Commission.
 - (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
 - (b) Department of Tax Administration.
 - (c) Office of Financial and Administrative Services.
 - (d) Department of Law.
 - (e) Department of Information Technology.
 - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
- (a) Department of Travel.
 - (b) Department of Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (d) Kentucky Horse Park Commission.
 - (e) State Fair Board.
 - (f) Office of Administrative Services.
 - (g) Office of General Counsel.
13. Cabinet for Workforce Development:
- (a) Department for Adult Education and Literacy.

- (b) Department for Technical Education.
- (c) Department of Vocational Rehabilitation.
- (d) Department for the Blind.
- (e) Department for Employment Services.
- (f) State Board for Adult and Technical Education.
- (g) The State Board for Proprietary Education.
- (h) The Foundation for Adult Education.
- (i) Office of Training and Reemployment.
- (j) Office of General Counsel.
- (k) Office of Communication Services.
- (l) Office of Development and Industry Relations.
- (m) Office of Workforce Analysis and Research.
- (n) Office for Administrative Services.
- (o) Office for Policy and Budget.
- (p) Office of Personnel Services.
- (q) Unemployment Insurance Commission.

14. Personnel Cabinet:

- (a) Office of Administrative and Legal Services.
- (b) Department for Personnel Administration.
- (c) Department for Employee Relations.
- (d) Kentucky Public Employees Deferred Compensation Authority.
- (e) Kentucky Kare.
- (f) Division of Performance Management.
- (g) Division of Employee Records.
- (h) Division of Staffing Services.
- (i) Division of Classification and Compensation.
- (j) Division of Employee Benefits.
- (k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Council on Postsecondary Education.
- 3. Department for Local Government.
- 4. Kentucky Commission on Human Rights.
- 5. Kentucky Commission on Women.
- 6. Department of Veterans' Affairs.
- 7. Kentucky Commission on Military Affairs.
- 8. The Governor's Office for Technology.
- 9. Commission on Small Business Advocacy.

Section 8. KRS 42.016 is amended to read as follows:

The following corporate bodies and instrumentalities of the Commonwealth shall be attached to the Office of the Secretary for administrative purposes and staff services:

- (1) State Property and Buildings Commission;
- (2) Kentucky Pollution Abatement Authority;
- (3) Kentucky Savings Bond Authority;
- (4) County Officials Compensation Board;
- (5) Kentucky Turnpike Authority;
- (6) State Investment Commission;
- (7) Kentucky Housing Corporation;
- (8) Governmental Services Center;
- (9) Kentucky Tobacco Settlement Trust Corporation;~~[-and]~~
- (10) Kentucky River Authority; *and*
- (11) ***Eastern Kentucky Exposition Center Corporation.***

Section 9. The Eastern Kentucky Exposition Center Corporation shall be the legal successor to the corporation established by Executive Order 98-1144, dated August 3, 1998, and shall receive and administer all the assets, bank accounts, contracts, and other responsibilities, duties, and obligations of the succeeded corporation.

Section 10. The General Assembly confirms Executive Order 2000-874, dated July 5, 2000, to the extent they are not otherwise confirmed or superseded by this Act.

Approved March 15, 2001

CHAPTER 28

(SCR 1)

A CONCURRENT RESOLUTION creating the Blackacre State Nature Preserve Task Force and declaring an emergency.

WHEREAS, the Blackacre State Nature Preserve was created in 1979 as the first natural area of the state deemed worthy of preservation for the benefit of all Kentuckians; and

WHEREAS, the farm and homestead at Blackacre are part of the Tyler Settlement Rural Historic District, a National Historic Site preserving archaeological and cultural links to Jefferson County's agricultural beginnings; and

WHEREAS, Blackacre is located outside the City of Jeffersontown near the conjunction of Jefferson, Shelby, and Spencer counties, an area now undergoing intense development; and

WHEREAS, during a ten year period from 1987 to 1997, land dedicated to farming in Jefferson County decreased by more than thirty-eight percent (38%);

WHEREAS, the conversion of farmland and natural areas to residential and other nonfarm uses is much higher in Jefferson County than in the rest of the state;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The Blackacre State Nature Preserve Task Force is created to develop a strategy to protect the character of Blackacre upon which the land's dedication as a nature preserve was based. The strategy shall include, but not be limited to, identifying land appropriate for adding to the preserve or to serve as a buffer for the preserve, capitalizing on Blackacre's status as the state's first nature preserve and the state's only preserve with a farm registered as a national historical site to publicize the importance of preserving natural and cultural areas that are threatened by

development, to preserve Kentucky's farming heritage, and to promote the value of the state nature preserves system to citizens across the Commonwealth. The strategy shall also include determining funding sources to be used for maintenance of the preserve, adding land to the preserve, and acquiring land to serve as a buffer around the preserve.

Section 2. The members of the task force shall be appointed as follows: two (2) members of the Senate appointed by the Senate President, at least one (1) of whom represents the area where Blackacre is located at the time of adoption of this resolution; two (2) members of the House of Representatives appointed by the Speaker, at least one (1) of whom represents the area where Blackacre is located at the time of adoption of this resolution; two (2) members of the Kentucky State Nature Preserves Commission or its staff, nominated by the chairperson of the Commission; two (2) members of the Blackacre Foundation Inc., nominated by the president of the Foundation; two (2) members of the Jefferson County School Board or its staff, nominated by the superintendent of the Board; two (2) members of Jefferson County government, nominated by the Jefferson County Judge/Executive; and four (4) members representing the state-at-large, nominated by the Governor.

Section 3. The President of the Senate shall select one (1) of the Senate members to serve as co-chairperson of the task force and the Speaker of the House shall select one (1) of the House members to serve as co-chairperson of the task force. The task force shall be staffed by the Legislative Research Commission staff.

Section 4. The task force shall report its strategy for Blackacre State Nature Preserve and recommendations for action to the Legislative Research Commission by November 30, 2001.

Section 5. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Section 6. Whereas not enough time would be available for a thorough investigation of the issues required by this study if this resolution became effective ninety (90) days after adjournment sine die, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved March 15, 2001

CHAPTER 29

(HB 37)

AN ACT relating to insurance.

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

SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Every property insurer, as defined in this chapter, authorized to do business in this state shall include a premium credit or discount provision in its rates filed with the commissioner for buildings equipped with an automatic sprinkler system. The amount of the discount shall reflect the cost savings the insurer expects to realize in insuring property equipped with automatic sprinkler systems.

SECTION 2. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The provisions of Section 1 of this Act shall apply to all property insurer rate filings on and after the effective date of this Act.

Approved March 15, 2001

CHAPTER 30

(SB 118)

AN ACT relating to rural health care.

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

Section 1. KRS 164.937 is amended to read as follows:

- (1) *The University of Kentucky shall maintain a Center of Excellence in Rural Health.*
- (2) *The mission of the Center of Excellence in Rural Health shall be the improvement of the health of all rural Kentuckians and the improvement of rural health care systems through education, research, and service.*
- (3) *The Center of Excellence in Rural Health shall:*
 - (a) *Support a site-based director, core faculty, and staff;*
 - (b) *Collect and maintain statistical and other information relating to rural health status, rural health care systems, rural health policy, and other issues affecting the health and well-being of rural populations;*
 - (c) *Collect, analyze, interpret, disseminate, and make recommendations regarding the availability, distribution, and sufficiency of the health professions workforce;*
 - (d) *Provide educational opportunities for students committed to rural health care:*
 1. *To obtain education in needed health professions as determined by the workforce analyses, rotating these programs as necessary;*
 2. *By testing and developing innovative models for learning; and*
 3. *By reserving funds budgeted for specific educational programs that in the future are deemed no longer necessary for use for educational programs for other health professions;*
 - (e) *Maintain site-based family practice residencies;*
 - (f) *Serve as the federally designated Office of Rural Health and perform the duties prescribed by the United States Health Resources and Services Administration;*
 - (g) *Demonstrate or provide innovative programs that improve the health of rural Kentuckians and strengthen rural health care systems; and*
 - (h) *Advocate for rural health care.*
- (4) *To the extent additional funds are appropriated, the Center of Excellence in Rural Health shall establish additional sites throughout the Commonwealth as necessary to achieve the mission of the center.* ~~The University of Kentucky shall develop a Center of Excellence for Rural Health Care to collect and maintain statistical and other information relating to health manpower needs, health care delivery research, health policy, and health problems unique to rural populations and shall:~~
 - ~~(1) Coordinate clinical rotations for health science students;~~
 - ~~(2) Maintain the rural health science library;~~
 - ~~(3) Establish a family practice residency program at a regional public medical center with decentralized clinical practice sites;~~
 - ~~(4) Develop an accelerated program to enable registered nurses with associate degrees to pursue a master's degree in nursing in locations on and off affiliated college campuses;~~
 - ~~(5) Coordinate the placement of emergency medicine clinical residents in rural hospitals;~~
 - ~~(6) Implement the provisions of KRS 164.935;~~
 - ~~(7) Maintain clinical training sites for students in the health professions;~~
 - ~~(8) Establish and coordinate associate degree and bachelor degree programs for the education of physical therapists in a rural area;~~
 - ~~(9) Establish and coordinate associate degree and bachelor degree programs in laboratory technology in a rural area; and~~
 - ~~(10) Provide continuing education for health care professionals.]~~
- (5) *Nothing in this section shall be construed to restrict the study of rural health policies, workforce analyses, or the training of health professionals in or for rural or medically underserved areas by other state universities.*

- (6) The University of Kentucky shall report to the Council on Postsecondary Education and the Legislative Research Commission a detailed, audited statement of expenditures for each program function in the Center of Excellence for Rural Health Care by September 1 of each year which enumerates expenditures for the preceding fiscal year.

Approved March 15, 2001

CHAPTER 31

(SB 31)

AN ACT related to newborn screening.

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

Section 1. KRS 214.155 is amended to read as follows:

- (1) The administrative officer or other person in charge of each institution caring for infants twenty-eight (28) days or less of age and the person required in pursuance of the provisions of KRS 213.046 shall register the birth of a child, and cause to have administered to every such infant or child in its or his care tests for **heritable disorders**~~[inborn errors of metabolism]~~, including but not limited to phenylketonuria (PKU), **sickle cell disease, congenital hypothyroidism, and galactosemia** in accordance with rules or regulations prescribed by the secretary of the Cabinet for Health Services. Testing, recording, and reporting of the results of **newborn screening**~~[such]~~ tests shall be performed at ~~the~~~~[such]~~ times and in ~~the~~~~[such]~~ manner as may be prescribed by the secretary of the Cabinet for Health Services or ~~the secretary's~~~~[his]~~ designee. The secretary of the Cabinet for Health Services shall by regulation establish and collect fees to cover the cost of analyzing the testing samples for **newborn screening tests**~~[inborn errors of metabolism]~~.
- (2) Nothing in this section shall be construed to require the testing of any child whose parents are members of a nationally recognized and established church or religious denomination, the teachings of which are opposed to medical tests, and who object in writing to the testing of ~~his or her~~~~[such]~~ child on that ground.
- (3) The cabinet shall make available the names and addresses of health care providers, including, but not limited to, physicians, nurses, and nutritionists, who may provide postpartum home visits to any family whose infant or child has tested positive for **a newborn screening test**~~[an inborn error of metabolism, including, but not limited to, PKU]~~.
- (4) *Contingent upon the receipt of federal grants or appropriations by the General Assembly of the Commonwealth of Kentucky, the tests for heritable disorders for newborns listed in subsection (1) of Section 1 of this Act shall be expanded to include, but not be limited to, medium-chain acyl-CoA dehydrogenase deficiency (MCAD), very long-chain acyl-CoA deficiency (VLCAD), short-chain acyl-CoA dehydrogenase deficiency (SCAD), maple syrup urine disease, congenital adrenal hyperplasia, biotinidase disorder, and cystic fibrosis.*
- (5) *The secretary for health services or his or her designee shall apply for any federal grants available through the Public Health Service Act to expand or improve programs to provide screening, counseling, testing, or specialty services for newborns or children at risk for heritable disorders.*
- (6) *The secretary for health services or his or her designee shall apply for any federal grants available through the Public Health Service Act to evaluate the effectiveness of newborn screening, counseling, or health care services in reducing the morbidity and mortality caused by heritable disorders in newborns and children.*

Approved March 15, 2001

CHAPTER 32

(SB 29)

AN ACT relating to budget submissions.

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

Section 1. KRS 48.100 is amended to read as follows:

- (1) A branch budget recommendation shall be submitted to the General Assembly by the Governor for the executive branch, the Chief Justice for the judicial branch, and the Legislative Research Commission for the legislative branch. The budget recommendations shall be submitted to the General Assembly on or before the tenth legislative day of each ***even-numbered year*** regular session, except in the year following the election of ***a new***~~the~~ Governor when the budget recommendations shall be submitted not later than the fifteenth legislative day of ***an even-numbered year***~~the~~ regular session.
- (2) Budget recommendations shall be submitted on the first day of any extraordinary session called for the purpose of amending a branch budget bill.

Approved March 15, 2001

CHAPTER 33

(HB 90)

AN ACT relating to reorganization.

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

Section 1. KRS 304.17B-005 is amended to read as follows:

- (1) There is hereby created Kentucky Access, which shall ensure that health coverage is made available to each Kentucky individual resident applying and qualifying for coverage. Any health coverage provided under this section shall begin no sooner than January 1, 2001. Kentucky Access is designed for the purpose of implementing an acceptable alternative mechanism within the meaning of 42 U.S.C. sec. 300gg-44(a)(1) so that Kentucky may preserve the flexibility over the regulation of health coverage allowed by federal law.
- (2) Kentucky Access shall operate under the ***Division of Kentucky Access in*** ~~supervision of~~ the Department of ***Insurance. The division shall be headed by a division director appointed by the commissioner of insurance in accordance with KRS 12.050 and KRS 304.2-060.***
- (3) Neither the department nor its employees shall be liable for any obligations of Kentucky Access. No member or employee of the department shall be liable, and no cause of action of any nature may arise against them, for any act or omission related to the performance of their powers and duties under KRS 304.17B-001 to 304.17B-031, unless such act or omission constitutes willful or wanton misconduct. The department may provide in its policies and procedures for indemnification of, and legal representation for, its members and employees.

Section 2. The General Assembly confirms Executive Order 2000-987, dated July 25, 2000, creating the Division of Kentucky Access, Department of Insurance, to the extent it is not otherwise confirmed by this Act.

Approved March 15, 2001

CHAPTER 34

(HB 91)

AN ACT relating to the reorganization of the Economic Development Cabinet.

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

Section 1. KRS 154.12-260 is amended to read as follows:

- (1) The ***Department for***~~Office of~~ Coal County Development is created within the ***Cabinet for Economic Development***~~Office of the Secretary~~. The ***Department for***~~Office of~~ Coal County Development shall promote the Local Government Economic Development Program which funds infrastructure to new and expanding business and industry, thereby diversifying eligible county economies and creating an environment more conducive to business activity.
- (2) The ***Department for***~~Office of~~ Coal County Development shall be headed by ***a commissioner***~~an executive director~~ appointed by the ***Governor***~~secretary~~ pursuant to KRS ***12.040***~~154.10-050(3)~~.

Section 2. KRS 42.4588 is amended to read as follows:

- (1) There is established within the Kentucky Economic Development Finance Authority a Local Government Economic Development Program to consist of a system of grants to counties to attract new industry.
- (2) Grants obtained under this program shall be used for:
 - (a) Industrial development projects if an industrial firm has agreed with the local government, to the satisfaction of the Kentucky Economic Development Finance Authority, to develop, in conjunction with the industrial development project, manufacturing, processing, assembling, or other facilities approved by the ***commissioner of the Department for Coal County Development*** ~~in[secretary of]~~ the Cabinet for Economic Development;
 - (b) Industrial development projects if the ***commissioner of the Department for Coal County Development*** ~~in[secretary of]~~ the Cabinet for Economic Development finds that the project is necessary for the creation of an environment for new industry in order to obtain an agreement from an industrial firm to develop manufacturing, processing, assembling, or other facilities approved by the ***commissioner of the Department for Coal County*** ~~[secretary of the Cabinet for Economic]~~ Development; and
 - (c) Debt service for industrial development projects, as defined in subsection (2)(a) and (b) of this section, or for facilities approved by the ***commissioner of the Department for Coal County Development*** ~~in[secretary of]~~ the Cabinet for Economic Development under the provisions of subsection (3) of this section.
- (3) The ***commissioner of the Department for Coal County Development*** ~~in[secretary of]~~ the Cabinet for Economic Development may approve facilities, other than manufacturing, processing, or assembling facilities, for industrial development projects when the ***commissioner*** ~~[secretary]~~ finds that the facility will add value to a product. Value-added facilities shall include data processing, telecommunication, and distribution facilities, but shall not include retail facilities or coal mining, coal processing, or coal transportation facilities. The ***commissioner*** ~~[secretary]~~ may also approve privately-owned facilities for transient lodging and recreation where the ***commissioner*** ~~[secretary]~~ finds that the cost of the recreation component of the facility is equal to, or greater than, the cost of the lodging component of the facility. The criteria for approval of applications for grants provided for in paragraphs (a), (b), and (c) of subsection (9) of this section shall be paramount in the case of lodging and recreational facilities.
- (4) Applications for grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund. Applications for grants from funds provided for in KRS 42.4592(1)(c) shall be made by the legislative bodies of two (2) or more counties with accounts in the local government economic development fund. No grant shall be awarded without application for a grant.
- (5) A grant may be awarded for an industrial development project located in a county that does not have an account in the local government economic development fund, if the ***commissioner of the Department for Coal County Development*** ~~in[secretary of]~~ the Cabinet for Economic Development finds that the industrial development project may be reasonably expected to create jobs for residents of the local unit or units of government applying for the grant. Application for the grant shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund.
- (6) An industrial development project may include legal, accounting, engineering, and marketing expenses for a regional industrial park, in addition to the activities set forth in subsection (11)(a) of this section.
- (7) Grants awarded from funds provided for in KRS 42.4592(1)(a) and (b) shall not exceed the total balance of the accounts of the applicant counties at the time of the award of the grant.
- (8) Grants awarded under the provisions of subsection (2)(c) of this section may be for a period not to exceed the current biennium of the Commonwealth, and shall be limited to an amount not to exceed the amount estimated to be allocated to the applicant county or counties for the current biennium under the provisions of KRS 42.4592(1)(a) and (b).
- (9) Approval of grant applications shall be by the ***commissioner of the Department for Coal County Development*** ~~in[secretary of]~~ the Cabinet for Economic Development. Award of grants shall be by the Kentucky Economic Development Finance Authority.
- (10) Criteria for approval of applications and the award of grants to be considered, if applicable, shall include:

- (a) The number of jobs to be created or preserved, directly or indirectly, by the industrial development project;
 - (b) Payrolls, and the taxes generated, both at the state and local levels, by the industrial development project and taxes generated by the employment created or preserved by the industrial development project;
 - (c) The size, nature, and cost of the industrial development project, including the prospect of the industrial development project providing long-term jobs in enterprises consistent with the changing economies of the affected local units of government;
 - (d) The needs, and degree of needs, of the local units of government which will be affected by the industrial development project;
 - (e) The needs of any industrial firm benefiting from the industrial development project;
 - (f) The amount and kind of assistance, if any, available to an industrial firm from other government agencies through tax exemption or abatement, financing assistance through industrial development bonds, and otherwise, with respect to the industrial development project;
 - (g) The amount of capital made available to the facility by lenders and by the industrial firm; and
 - (h) The economic feasibility of the facility.
- (11) For purposes of this section:
- (a) "Industrial development project" includes the acquisition of any real estate and the construction, acquisition, and installation thereon and with respect thereto of improvements and facilities necessary and useful for the improvement of the real estate for conveyance to or lease to industrial firms to be used for manufacturing, processing, or assembling purposes, including surveys; site tests and inspections; subsurface site work; excavation, removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage; storm water retention; installation of utilities, such as water, sewer, sewage treatment, gas, electricity, communication, and other similar facilities; off-site construction of utility extensions to the boundaries of the real estate; construction and installation on the real estate of the industrial firm of buildings, including buildings to be used for worker training and education; rail facilities; roads; sidewalks; curbs; other improvements to the real estate necessary to its manufacturing, processing, assembling, or other approved use by industrial entities; workforce training; and job development incentive grants;
 - (b) "Industrial firm" means any corporation, limited liability company, limited liability partnership, partnership, person, or other legal entity, whether domestic or foreign, which will itself or through its subsidiaries and affiliates construct and develop a manufacturing, processing, assembling, or other approved facility on the site of an industrial development project financed pursuant to this section;
 - (c) "Job development incentive grant" means an award to a county of funds from its account administered by the Kentucky Economic Development Finance Authority pursuant to KRS 42.4592(1)(a) and (b) for the use by the county to encourage job development for those industrial development projects located in that county which create at least twenty-five (25) new full-time jobs held by Kentucky residents who receive a minimum wage of at least one hundred thirty percent (130%) of the federal minimum wage. Each job development incentive grant is limited to five thousand dollars (\$5,000) for each job created which fulfills the requirements of this subsection. The industrial firm receiving the job development incentive grant shall pay its employees at the project site an average wage equal to or greater than one hundred fifty percent (150%) of the federal minimum wage and shall invest at least ten thousand dollars (\$10,000) per new job created. After a fiscal court has received authorization for the job development grant by the Kentucky Economic Development Finance Authority, the county, the industrial firm, and the Kentucky Economic Development Finance Authority shall enter into an agreement committing the grant funds to be disbursed at such time as the industrial firm certifies the authenticity of the following information to be delivered to the county:
 - 1. The industrial firm has made at least the minimum investment required;
 - 2. At least twenty-five (25) new full-time Kentucky jobs have been created at the project site by the industrial firm;

3. No employee at the project site is paid a salary by the industrial firm which is less than one hundred thirty percent (130%) of the federal minimum wage;
4. The employees at the project site are paid an average wage by the industrial firm at least equal to one hundred fifty percent (150%) of the federal minimum wage;
5. Each employee hired for the project by the industrial firm shall have worked on a full-time basis at the minimum wages described in this section at least twelve (12) full consecutive months at the site prior to any grant funds disbursement; and
6. No job created by the industrial firm after twenty-four (24) months from the date of the first eligible hire at the project site shall be considered for the grant.

If the county is satisfied the information provided is accurate and qualifies the industrial firm for the job development incentive grant as described in the agreement, it shall forward the certified information to the ***Department for Coal County Development***, Cabinet for Economic Development which shall make the job development grant disbursement upon sufficient evidence that all terms of the agreement have been met; and

- (d) "Regional industrial park" means an industrial development project authorized for a grant award by the Kentucky Economic Development Finance Authority for a minimum of three (3) counties eligible for grant funds provided for in KRS 42.4592(1)(c), which coalition may include a county as approved under subsection (5) of this section.
- (12) Findings by the ***commissioner of the Department for Coal County Development in***~~Secretary of~~ the Cabinet for Economic Development, provided for in subsections (2)(b), (3), and (5) of this section, shall be made in writing to the affected counties, the Governor, and the Legislative Research Commission.
- (13) By October 1 of each odd-numbered year, the ***commissioner of the Department for Coal County Development***~~Secretary of the~~ Cabinet for Economic Development shall provide, in writing, to the Governor and the Legislative Research Commission a listing of all applications for grants received pursuant to this section subsequent to the last report, indicating which applications were approved or disapproved, with the reason for disapproval when the decision was to disapprove, and a listing of all grants awarded, with the amount of the award, the recipient county, and the related industrial development project.

Section 3. KRS 42.4595 is amended to read as follows:

The Department for Local Government may promulgate administrative regulations to implement the provisions of KRS 42.4582, 42.4585, or 42.4592. The ***Department for Coal County Development in the*** Cabinet for Economic Development or the Kentucky Economic Development Finance Authority may promulgate administrative regulations to implement the provisions of KRS 42.4588.

Section 4. KRS 42.460 is amended to read as follows:

Except as provided in subsection (4)(b) of KRS 91A.040, any assistance granted under KRS 42.450 to 42.495 shall include an agreement that an independent annual audit shall be conducted and that the audit report shall include a certification that the funds were expended for the purpose intended. A copy of the audit and certification of compliance shall be forwarded to the Department for Local Government, in the case of assistance granted from the local government economic assistance fund, or to the ***Department for Coal County Development***, Cabinet for Economic Development and the Kentucky Economic Development Finance Authority, in the case of assistance granted from the local government economic development fund, within eighteen (18) months after the end of the fiscal year.

Section 5. KRS 42.480 is amended to read as follows:

- (1) On or before July 1, 1992, and each year thereafter, the commissioner of the Department for Local Government shall provide the ***Department for Coal County Development in the*** Cabinet for Economic Development, the Kentucky Economic Development Finance Authority, and the legislative body of each local government eligible for funds under the provisions of KRS 42.450 to 42.495, an estimate of the funds that will be allocated to the local government for fiscal year 1992-93, and each year thereafter.
- (2) On or before the fifteenth of the first month of a quarter, the commissioner of the Department for Local Government shall cause to be remitted to the legislative bodies of the local governments eligible for funds from the local government economic assistance fund, the funds allocated to the respective local governments for the prior quarter; except that the remittance for the last quarter of a fiscal year shall be made after the close of the

fiscal year accounting records, and shall be adjusted to provide the balance of the annual allocation due the local government.

Section 6. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.

2. Education, Arts, and Humanities Cabinet:
 - (a) Department of Education.
 - (1) Kentucky Board of Education.
 - (2) Education Professional Standards Board.
 - (b) Department for Libraries and Archives.
 - (c) Kentucky Arts Council.
 - (d) Kentucky Educational Television.
 - (e) Kentucky Historical Society.
 - (f) Kentucky Teachers' Retirement System Board of Trustees.
 - (g) Kentucky Center for the Arts.
 - (h) Kentucky Craft Marketing Program.
 - (i) Kentucky Commission on the Deaf and Hard of Hearing.
 - (j) Governor's Scholars Program.
 - (k) Governor's School for the Arts.
 - (l) Operations and Development Office.
 - (m) Kentucky Heritage Council.
 - (n) Kentucky African-American Heritage Commission.
 - (o) Board of Directors for the Center for School Safety.
3. Natural Resources and Environmental Protection Cabinet:
 - (a) Environmental Quality Commission.
 - (b) Kentucky Nature Preserves Commission.
 - (c) Department for Environmental Protection.
 - (d) Department for Natural Resources.
 - (e) Department for Surface Mining Reclamation and Enforcement.
 - (f) Office of Legal Services.
 - (g) Office of Information Services.
 - (h) Office of Inspector General.
4. Transportation Cabinet:
 - (a) Department of Highways.
 1. Office of Program Planning and Management.
 2. Office of Project Development.
 3. Office of Construction and Operations.
 4. Office of Intermodal Programs.
 5. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Fiscal Management.
 - (e) Department of Rural and Municipal Aid.

- (f) Department of Human Resources Management.
 - (g) Office of the Secretary.
 - (h) Office of General Counsel and Legislative Affairs.
 - (i) Office of Public Affairs.
 - (j) Office of Transportation Delivery.
 - (k) Office of Minority Affairs.
 - (l) Office of Policy and Budget.
5. Cabinet for Economic Development:
- (a) Department of Administration and Support.
 - (b) Department for Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department of Community Development.
 - (e) ***Department for Coal County Development.***
 - (f) Tobacco Research Board.
 - (g) ~~(f)~~ Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
- (a) Public Service Commission.
 - (b) Department of Insurance.
 - (c) Department of Housing, Buildings and Construction.
 - (d) Department of Financial Institutions.
 - (e) Department of Mines and Minerals.
 - (f) Department of Public Advocacy.
 - (g) Department of Alcoholic Beverage Control.
 - (h) Kentucky Racing Commission.
 - (i) Board of Claims.
 - (j) Crime Victims Compensation Board.
 - (k) Kentucky Board of Tax Appeals.
 - (l) Backside Improvement Commission.
 - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
 - (n) Department of Charitable Gaming.
7. Cabinet for Families and Children:
- (a) Department for Community Based Services.
 - (b) Department for Disability Determination Services.
 - (c) Public Assistance Appeals Board.
 - (d) Office of the Secretary.
 - (1) Kentucky Commission on Community Volunteerism and Service.
 - (e) Office of the General Counsel.
 - (f) Office of Program Support.

- (g) Office of Family Resource and Youth Services Centers.
 - (h) Office of Technology Services.
 - (i) Office of the Ombudsman.
 - (j) Office of Performance Enhancement.
8. Cabinet for Health Services.
- (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission on Children with Special Health Care Needs.
 - (e) Office of Certificate of Need.
 - (f) Office of the Secretary.
 - (g) Office of the General Counsel.
 - (h) Office of Program Support.
 - (i) Office of the Inspector General.
 - (j) Office of Aging Services.
9. Finance and Administration Cabinet:
- (a) Office of Legal and Legislative Services.
 - (b) Office of Management and Budget.
 - (c) Office of Financial Management.
 - (d) Office of the Controller.
 - (e) Department for Administration.
 - (f) Department of Facilities Management.
 - (g) State Property and Buildings Commission.
 - (h) Kentucky Pollution Abatement Authority.
 - (i) Kentucky Savings Bond Authority.
 - (j) Deferred Compensation Systems.
 - (k) Office of Equal Employment Opportunity Contract Compliance.
 - (l) Office of Capital Plaza Operations.
 - (m) County Officials Compensation Board.
 - (n) Kentucky Employees Retirement Systems.
 - (o) Commonwealth Credit Union.
 - (p) State Investment Commission.
 - (q) Kentucky Housing Corporation.
 - (r) Governmental Services Center.
 - (s) Kentucky Local Correctional Facilities Construction Authority.
 - (t) Kentucky Turnpike Authority.
 - (u) Historic Properties Advisory Commission.
 - (v) Kentucky Kare Health Insurance Authority.

- (w) Kentucky Tobacco Settlement Trust Corporation.
10. Labor Cabinet:
- (a) Department of Workplace Standards.
 - (b) Department of Workers' Claims.
 - (c) Kentucky Labor-Management Advisory Council.
 - (d) Occupational Safety and Health Standards Board.
 - (e) Prevailing Wage Review Board.
 - (f) Workers' Compensation Board.
 - (g) Kentucky Employees Insurance Association.
 - (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.
 - (j) Kentucky Occupational Safety and Health Review Commission.
 - (k) Office of Administrative Services.
 - (l) Office of Labor-Management Relations and Mediation.
 - (m) Office of General Counsel.
 - (n) Workers' Compensation Funding Commission.
 - (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
 - (b) Department of Tax Administration.
 - (c) Office of Financial and Administrative Services.
 - (d) Department of Law.
 - (e) Department of Information Technology.
 - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
- (a) Department of Travel.
 - (b) Department of Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (d) Kentucky Horse Park Commission.
 - (e) State Fair Board.
 - (f) Office of Administrative Services.
 - (g) Office of General Counsel.
13. Cabinet for Workforce Development:
- (a) Department for Adult Education and Literacy.
 - (b) Department for Technical Education.
 - (c) Department of Vocational Rehabilitation.
 - (d) Department for the Blind.
 - (e) Department for Employment Services.

- (f) State Board for Adult and Technical Education.
 - (g) The State Board for Proprietary Education.
 - (h) The Foundation for Adult Education.
 - (i) Office of Training and Reemployment.
 - (j) Office of General Counsel.
 - (k) Office of Communication Services.
 - (l) Office of Development and Industry Relations.
 - (m) Office of Workforce Analysis and Research.
 - (n) Office for Administrative Services.
 - (o) Office for Policy and Budget.
 - (p) Office of Personnel Services.
 - (q) Unemployment Insurance Commission.
14. Personnel Cabinet:
- (a) Office of Administrative and Legal Services.
 - (b) Department for Personnel Administration.
 - (c) Department for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Kentucky Kare.
 - (f) Division of Performance Management.
 - (g) Division of Employee Records.
 - (h) Division of Staffing Services.
 - (i) Division of Classification and Compensation.
 - (j) Division of Employee Benefits.
 - (k) Division of Communications and Recognition.
- III. Other departments headed by appointed officers:
- 1. Department of Military Affairs.
 - 2. Council on Postsecondary Education.
 - 3. Department for Local Government.
 - 4. Kentucky Commission on Human Rights.
 - 5. Kentucky Commission on Women.
 - 6. Department of Veterans' Affairs.
 - 7. Kentucky Commission on Military Affairs.
 - 8. The Governor's Office for Technology.
 - 9. Commission on Small Business Advocacy.

Section 7. The General Assembly confirms Economic Development Partnership Resolution No. 00-1 relating to the reorganization of the Economic Development Cabinet to the extent that it is not otherwise confirmed by Sections 1 to 6 of this Act.

Approved March 15, 2001

CHAPTER 35

(HB 342)

AN ACT relating to utilities.

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

Section 1. KRS 278.020 is amended to read as follows:

- (1) No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, except retail electric suppliers for service connections to electric-consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business, until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction. Upon the filing of an application for a certificate, and after any public hearing which the commission may in its discretion conduct for all interested parties, the commission may issue or refuse to issue the certificate, or issue it in part and refuse it in part, except that the commission shall not refuse or modify an application submitted under KRS 278.023 without consent by the parties to the agreement. The commission, when considering an application for a certificate to construct a base load electric generating facility, may consider the policy of the General Assembly to foster and encourage use of Kentucky coal by electric utilities serving the Commonwealth. Unless exercised within one (1) year from the grant thereof, exclusive of any delay due to the order of any court or failure to obtain any necessary grant or consent, the authority conferred by the issuance of the certificate of convenience and necessity shall be void, but the beginning of any new construction or facility in good faith within the time prescribed by the commission and the prosecution thereof with reasonable diligence shall constitute an exercise of authority under the certificate.
- (2) No utility shall exercise any right or privilege under any franchise or permit, after the exercise of that right or privilege has been voluntarily suspended or discontinued for more than one (1) year, without first obtaining from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity authorizing the exercise of that right or privilege.
- (3) No utility shall apply for or obtain any franchise, license, or permit from any city or other governmental agency until it has obtained from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity showing that there is a demand and need for the service sought to be rendered.
- (4) No person shall acquire or transfer ownership of, or control, or the right to control, any utility under the jurisdiction of the commission by sale of assets, transfer of stock, or otherwise, or abandon the same, without prior approval by the commission. The commission shall grant its approval if the person acquiring the utility has the financial, technical, and managerial abilities to provide reasonable service.
- (5) No individual, group, syndicate, general or limited partnership, association, corporation, joint stock company, trust, or other entity (an "acquirer"), whether or not organized under the laws of this state, shall acquire control, either directly or indirectly, of any utility furnishing utility service in this state, without having first obtained the approval of the commission. Any acquisition of control without prior authorization shall be void and of no effect. As used in this subsection, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a utility, whether through the ownership of voting securities, by effecting a change in the composition of the board of directors, by contract or otherwise. Control shall be presumed to exist if any individual or entity, directly or indirectly, owns ten percent (10%) or more of the voting securities of the utility. This presumption may be rebutted by a showing that ownership does not in fact confer control. Application for any approval or authorization shall be made to the commission in writing, verified by oath or affirmation, and be in a form and contain the information as the commission requires. The commission shall approve any proposed acquisition when it finds that the same is to be made in accordance with law, for a proper purpose and is consistent with the public interest. The commission may make investigation and hold hearings in the matter as it deems necessary, and thereafter may grant any application under this subsection in whole or in part and with modification and upon terms and conditions as it deems necessary or appropriate. The commission shall grant, modify, refuse, or prescribe appropriate terms and conditions with respect to every such application within sixty (60) days after the filing of the application therefor, ***unless it is necessary, for good cause shown, to continue the application for up to sixty (60)***

additional days. The order continuing the application shall state fully the facts that make continuance necessary~~[or on a later date mutually acceptable to the commission and the acquirer]~~. In the absence of that action within that period of time, any proposed acquisition shall be deemed to be approved.

- (6) Subsection (5) of this section shall not apply to any acquisition of control of any:
 - (a) Utility which derives a greater percentage of its gross revenue from business in another jurisdiction than from business in this state if the commission determines that the other jurisdiction has statutes or rules which are applicable and are being applied and which afford protection to ratepayers in this state substantially equal to that afforded such ratepayers by subsection (5) of this section;
 - (b) Utility by an acquirer who directly, or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with, the utility, including any entity created at the direction of such utility for purposes of corporate reorganization; or
 - (c) Utility pursuant to the terms of any indebtedness of the utility, provided the issuance of indebtedness was approved by the commission.
- (7) If any provision of this section or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to that end the provisions are declared to be severable.

Approved March 15, 2001

CHAPTER 36

(HB 138)

AN ACT relating to physician assistants.

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

Section 1. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

- (1) "Abortion facility" means any place in which an abortion is performed;
- (2) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter 13A;
- (3) "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; and the cabinet and third-party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located;
- (4) "Applicant" means any physician's office requesting a major medical equipment expenditure of one million five hundred thousand dollars (\$1,500,000) or more after July 15, 1996, adjusted annually, or any person, health facility, or health service requesting a certificate of need or license;
- (5) "Cabinet" means the Cabinet for Health Services;
- (6) "Capital expenditure" means an expenditure made by or on behalf of a health facility which:
 - (a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance or is not for investment purposes only; or
 - (b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part thereof;
- (7) "Capital expenditure minimum" means one million five hundred thousand dollars (\$1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with

respect to which the expenditure is made shall be included. Donations of equipment or facilities to a health facility which if acquired directly by the facility would be subject to review under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review;

- (8) "Certificate of need" means an authorization by the cabinet to acquire, to establish, to offer, to substantially change the bed capacity, or to substantially change a health service as covered by this chapter;
- (9) "Certified surgical assistant" means a certified surgical assistant or certified first assistant who is certified by the National Surgical Assistant Association on the Certification of Surgical Assistants, the Liaison Council on Certification of Surgical Technologists, or the American Board of Surgical Assistants. The certified surgical assistant is an unlicensed health-care provider who is directly accountable to a physician licensed under KRS Chapter 311 or, in the absence of a physician, to a registered nurse licensed under KRS Chapter 314;
- (10) "Continuing care retirement community" means a community that provides, on the same campus, a continuum of residential living options and support services to persons sixty (60) years of age or older under a written agreement. The residential living options shall include independent living units, nursing home beds, and either assisted living units or personal care beds;
- (11) "Formal review process" means the ninety (90) day certificate-of-need review conducted by the cabinet;
- (12) "Health facility" means any institution, place, building, agency, or portion thereof, public or private, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include, but shall not be limited to, health facilities and health services commonly referred to as hospitals, psychiatric hospitals, physical rehabilitation hospitals, chemical dependency programs, tuberculosis hospitals, skilled nursing facilities, nursing facilities, nursing homes, personal care homes, intermediate care facilities, family care homes, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ambulance providers, hospices, community mental health and mental retardation centers, home health agencies, kidney disease treatment centers and freestanding hemodialysis units, facilities and services owned and operated by health maintenance organizations directly providing health services subject to certificate of need, and others providing similarly organized services regardless of nomenclature;
- (13) "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons, including, but not limited to, diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services;
- (14) "Independent living" means the provision of living units and supportive services including, but not limited to, laundry, housekeeping, maintenance, activity direction, security, dining options, and transportation;
- (15) "Intraoperative surgical care" includes the practice of surgical assisting in which the certified surgical assistant **or physician assistant** is working under the direction of the operating physician as a first or second assist, and which may include the following procedures:
 - (a) Positioning the patient;
 - (b) Preparing and draping the patient for the operative procedure;
 - (c) Observing the operative site during the operative procedure;
 - (d) Providing the best possible exposure of the anatomy incident to the operative procedure;
 - (e) Assisting in closure of incisions and wound dressings; and
 - (f) Performing any task, within the role of an unlicensed assistive person, **or if the assistant is a physician assistant, performing any task within the role of a physician assistant, as** required by the operating physician incident to the particular procedure being performed;
- (16) "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum. For purposes of this subsection, "medical equipment expenditure minimum" means one million five hundred thousand dollars (\$1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether

medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included;

- (17) "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095;
- (18) "Nonclinically-related expenditures" means expenditures for:
 - (a) Repairs, renovations, alterations, and improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in a health service, or the addition of major medical equipment, and do not constitute the replacement or relocation of a health facility; or
 - (b) Projects which do not involve the provision of direct clinical patient care including, but not limited to, the following:
 - 1. Parking facilities;
 - 2. Telecommunications or telephone systems;
 - 3. Management information systems;
 - 4. Ventilation systems;
 - 5. Heating or air conditioning, or both;
 - 6. Energy conservation; or
 - 7. Administrative offices;
- (19) "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record;
- (20) "Perioperative nursing" means a practice of nursing in which the nurse provides preoperative, intraoperative, and postoperative nursing care to surgical patients;
- (21) "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state, or political subdivision or instrumentality including a municipal corporation of a state;
- (22) ***"Physician assistant" means the same as the definition provided in KRS 311.550;***
- (23) "Record" means, as applicable in a particular proceeding:
 - (a) The application and any information provided by the applicant at the request of the cabinet;
 - (b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;
 - (c) Any memoranda or documents prepared by or for the cabinet regarding the matter under review which were introduced at any hearing;
 - (d) Any staff reports or recommendations prepared by or for the cabinet;
 - (e) Any recommendation or decision of the cabinet;
 - (f) Any testimony or documentary evidence adduced at a hearing;
 - (g) The findings of fact and opinions of the cabinet or the findings of fact and recommendation of the hearing officer; and
 - (h) Any other items required by administrative regulations promulgated by the cabinet;
- ~~(24)~~~~(23)~~ "Registered nurse first assistant" means one who:
 - (a) Holds a current active registered nurse licensure;
 - (b) Is certified in perioperative nursing; and
 - (c) Has successfully completed and holds a degree or certificate from a recognized program, which shall consist of:

1. The Association of Operating Room Nurses, Inc., Core Curriculum for the registered nurse first assistant; and
2. One (1) year of postbasic nursing study, which shall include at least forty-five (45) hours of didactic instruction and one hundred twenty (120) hours of clinical internship or its equivalent of two (2) college semesters.

A registered nurse who was certified prior to 1995 by the Certification Board of Perioperative Nursing shall not be required to fulfill the requirements of paragraph (c) of this subsection;

~~(25)~~~~(24)~~ "Secretary" means the secretary of the Cabinet for Health Services;

~~(26)~~~~(25)~~ "Sexual assault examination facility" means a licensed health facility, emergency medical facility, primary care center, or a children's advocacy center or rape crisis center that is regulated by the Cabinet for Health Services or the Cabinet for Families and Children, and that provides sexual assault examinations under KRS 216B.400;

~~(27)~~~~(26)~~ "State health plan" means the document prepared triennially, updated annually, and approved by the Governor;

~~(28)~~~~(27)~~ "Substantial change in a health service" means:

- (a) The addition of a health service for which there are review criteria and standards in the state health plan;
- (b) The addition of a health service subject to licensure under this chapter; or
- (c) The reduction or termination of a health service which had previously been provided in the health facility;

~~(29)~~~~(28)~~ "Substantial change in bed capacity" means the addition, reduction, relocation, or redistribution of beds by licensure classification within a health facility;

~~(30)~~~~(29)~~ "Substantial change in a project" means a change made to a pending or approved project which results in:

- (a) A substantial change in a health service, except a reduction or termination of a health service;
- (b) A substantial change in bed capacity, except for reductions;
- (c) A change of location; or
- (d) An increase in costs greater than the allowable amount as prescribed by regulation;

~~(31)~~~~(30)~~ "To acquire" means to obtain from another by purchase, transfer, lease, or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition shall be deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, transferred, leased, or acquired by comparable arrangement by one (1) person from another person;

~~(32)~~~~(31)~~ "To batch" means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities, or equipment affecting the same health service area;

~~(33)~~~~(32)~~ "To establish" means to construct, develop, or initiate a health facility;

~~(34)~~~~(33)~~ "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a capital asset. A contract shall be considered enforceable when all contingencies and conditions in the contract have been met. An option to purchase or lease which is not binding shall not be considered an enforceable contract; and

~~(35)~~~~(34)~~ "To offer" means, when used in connection with health services, to hold a health facility out as capable of providing, or as having the means of providing, specified health services.

Section 2. KRS 216B.160 is amended to read as follows:

All health care facilities and services licensed under this chapter shall include in their policies and procedures a care delivery model based on patient needs which includes, but is not limited to:

- (1) Defined roles and responsibilities of licensed and unlicensed health care personnel;
- (2) A policy that establishes the credentialing, oversight, appointment, and reappointment of the registered nurse first assistant and for granting, renewing, and revising of the registered nurse first assistant's clinical privileges;
- (3) *A policy that establishes the credentialing, oversight, appointment, and reappointment of the physician assistant and for granting, renewing, and revising of the physician assistant's clinical privileges;*
- (4) A policy that establishes the credentialing, oversight, appointment, and reappointment of the certified surgical assistant and for granting, renewing, and revising of the certified surgical assistant's clinical privileges;
- (5)~~(4)~~ A staffing plan that specifies staffing levels of licensed and unlicensed personnel required to safely and consistently meet the performance and clinical outcomes-based standards as outlined in the facility's or service's quality improvement plan;
- (6)~~(5)~~ A staffing model that is developed and implemented in an interdisciplinary and collaborative manner;
- (7)~~(6)~~ A policy and method that incorporates at least four (4) components in an ongoing assessment done by the registered nurse of the severity of the patient's disease, patient condition, level of impairment or disability, and the specific unit patient census to meet the needs of the individual patient in a timely manner; and
- (8)~~(7)~~ A staffing model that supports the delivery of patient care services with an appropriate mix of licensed health care personnel that will allow them to practice according to their legal scope of practice, and for nurses, the professional standards of practice referenced in KRS Chapter 314, and facility and service policies.

If a nursing facility, intermediate care facility, or skilled care facility meets the most current state or federal regulations which address safe and consistent staffing levels of licensed and unlicensed personnel, those shall suffice for compliance with the standards in this section. This section shall not be interpreted as requiring any health care facility to develop a policy or a procedure for a service not offered by the facility.

SECTION 3. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provision of law, a health benefit plan issued or renewed on or after July 15, 2001, that provides coverage for surgical first assisting or intraoperative surgical care benefits or services shall be construed as providing coverage for a certified surgical assistant or physician assistant who performs services as identified in subsection (15) of Section 1 of this Act.

Approved March 15, 2001

CHAPTER 37

(HB 223)

AN ACT relating to special military-related license plates.

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

Section 1. KRS 186.041 is amended to read as follows:

- (1) The provisions of this section shall govern the issuance of all special military-related license plates. A person who wants to purchase a special military-related license plate shall apply to the county clerk in the county where the person lives on a form prescribed by the Transportation Cabinet. Each initial and renewal application shall be accompanied by proof that the person is associated with the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Coast Guard, United States Coast Guard Auxiliary, Kentucky National Guard, Merchant Marines with service between December 7, 1941, and August 15, 1945, or Civil Air Patrol in one (1) of the following ways:
 - (a) An active component member;
 - (b) A retired member; or
 - (c) A veteran who received a discharge under honorable conditions, or the veteran's widow and:
 1. Performed twenty-four (24) months of active-duty service;

2. Received an early release due to injuries or other medical condition, or at the convenience of the service;
 3. Received a hardship discharge;
 4. Was separated or retired due to a disability; or
 5. Was determined to have a service-connected disability incurred during the enlistment.
- (2) Initial registration and renewal registration fees for special military-related license plates shall be charged as provided in this subsection:
- (a) Disabled veterans and recipients of the Congressional Medal of Honor licensed under subsection (5) of this section shall not be charged an initial registration fee and shall not be charged a renewal registration fee. The license plate and certificate of registration shall be issued free of charge;
 - (b) The initial registration fee shall be a seventeen dollar (\$17) state fee that shall be divided under the provisions of subsection (3) of this section and that includes the cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar (\$3) county clerk fee, and the renewal registration fee shall be a three dollar (\$3) county clerk fee for:
 1. Former prisoners of war licensed under subsection (10) of this section;
 2. Survivors of Pearl Harbor licensed under subsection (11) of this section; and
 3. Members of the National Guard licensed under subsection (12) of this section.
 - (c) The initial registration fee shall be a seventeen dollar (\$17) state fee that shall be divided under the provisions of subsection (3) of this section, and the renewal registration fee shall be a twelve dollar (\$12) state fee that includes the cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar (\$3) county clerk fee for:
 1. Disabled veterans licensed under subsection (6) of this section;
 2. Purple Heart recipients licensed under subsection (9) of this section, except that if a Purple Heart recipient also qualifies as a disabled veteran under subsection (5) of this section, the Purple Heart recipient may receive either a Purple Heart or a disabled veteran's license plate, both initial and renewal, and the certificate of registration free of charge;
 3. Members of the Civil Air Patrol licensed under subsection (13) of this section; and
 4. Other active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Merchant Marines licensed under subsection (14) of this section.
- (3) The initial state fee collected under subsections (2)(b) and (2)(c) of this section shall be divided between the Transportation Cabinet and the Department of Veterans' Affairs. The Transportation Cabinet shall receive twelve dollars (\$12) of the initial state fee and the Department of Veterans' Affairs shall receive five dollars (\$5) of the initial state fee. The county clerk shall forward money collected under subsections (2)(b) and (2)(c) of this section to the Department of Veterans' Affairs on a quarterly basis and the department shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b). A person renewing a special military license plate issued under this section may donate five dollars (\$5) to support the veteran's program trust fund. Money donated under this subsection shall be paid to the county clerk who shall forward the money on a quarterly basis to the Department of Veterans' Affairs and the department shall deposit the money into the veteran's program trust fund established by KRS 40.460(2)(b).
- (4) A special military-related license plate may be issued for use on a passenger car registered under KRS 186.050(1) or for a commercial vehicle registered under KRS 186.050(3)(a) that has a gross laden weight of six thousand (6,000) pounds or less. Except as provided in subsection (7) of this section, a license plate issued under this section shall have the renewal registration decal issued annually during the applicant's birth month. License plates issued under this section shall be a five (5) year license plate. The member, retired member, veteran, or reservist may purchase two (2) special military-related license plates annually for vehicles they own or lease.

- (5) A recipient of the Congressional Medal of Honor or a disabled veteran who has been or shall be given financial assistance toward the purchase or lease of a motor vehicle by the United States Department of Veterans Affairs under the provisions of 38 U.S.C. sec. 1901, or any other public law that may be passed by the Congress of the United States shall initially and annually be issued a certificate of registration and a special military-related license plate free of charge.
- (6) A veteran who has been declared to be at least seventy percent (70%) *service-connected* disabled by the United States Department of Veterans Affairs, *or who is receiving total service-connected disability rating for compensation on individual unemployability*, and *who* has not received financial assistance from the United States Department of Veterans Affairs toward the purchase or lease of a motor vehicle shall be eligible for a disabled veterans license plate upon payment of the initial registration fee required in subsection (2)(c) of this section.
- (7) A disabled veterans license plate shall be printed in red, white, and blue colors. Half of the license plate shall be in one (1) color, the other half a second color, and the figures and lettering in the third color. Each plate shall contain the international symbol of access adopted by Rehabilitation International in 1969, the name of the state, the year, the registration number, and the words "Disabled Vet." A disabled veterans license plate shall have the renewal registration decal issued annually on July 31.
- (8) A recipient of the Congressional Medal of Honor shall be eligible for a Congressional Medal of Honor license plate that shall be printed in blue and white colors and shall follow the color scheme for all figures and letters as prescribed for passenger cars. Each plate shall contain the name or an abbreviation of the state and the words "Medal of Honor" and a number uniquely identifying each recipient, in lieu of registration numbers.
- (9) A recipient of a Purple Heart medal shall be eligible for a Purple Heart license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Purple Heart license plate shall bear the name "Purple Heart," a registration number, and an appropriate logo to be determined by the Transportation Cabinet.
- (10) A person who is a former prisoner of the enemy during World War I, World War II, the Korean War, or the Vietnam War, or the spouse of a deceased former prisoner of war, shall be eligible for a former prisoner of war license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. The application shall be accompanied by written proof from the United States Department of Veterans Affairs or other appropriate federal agency stating the period of time the person or person's spouse was a prisoner of war. A former prisoner of war license plate shall be printed in red, white, and blue colors. Each plate shall contain the name of the state, the year, the registration number, and the words "Former P.O.W." If a former prisoner of war dies with a vehicle licensed as authorized under this section, the person's surviving spouse may retain the license plate for use on the same vehicle or on another vehicle that complies with the provisions of subsection (4) of this section.
- (11) A person who is certified by the Kentucky chapter of the Pearl Harbor Survivors Association as being a survivor of the attack on Pearl Harbor shall be eligible for a Pearl Harbor license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. The Transportation Cabinet shall issue an applicant an appropriately designed plate identifying the vehicle as registered to a Pearl Harbor survivor. The person shall be required to attach to the special military-related license plate application written evidence from the Kentucky chapter of the Pearl Harbor Survivors Association that the person:
 - (a) Was a member of the United States Armed Forces on December 7, 1941;
 - (b) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m., Hawaii time, at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three (3) miles;
 - (c) Was discharged honorably from the United States Armed Forces; and
 - (d) Is certified by the Kentucky chapter of the Pearl Harbor Survivors Association.
- (12) A person who is a member of the Kentucky National Guard, or a retired member, shall be eligible for a National Guard license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. A National Guard license plate shall bear the name "Kentucky National Guard," a registration number, and the logo of the National Guard. Upon termination of membership in the Kentucky National Guard, except for those who remain eligible through retirement, a person shall comply with the provisions of subsection (15) of this section.

- (13) A person who is a member of the Civil Air Patrol shall be eligible for a Civil Air Patrol license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Civil Air Patrol license plate shall bear the name "Civil Air Patrol," a registration number, and an appropriate logo to be determined by the Transportation Cabinet. Upon termination of membership in the Civil Air Patrol, a person shall comply with the provisions of subsection (15) of this section.
- (14) (a) A person who meets the requirements of subsection (1) of this section shall be eligible for a military license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. The plate shall bear:
1. A seal indicating Army, Navy, Air Force, Marine Corps, or Coast Guard, or, in the case of the Merchant Marines, a seal indicating the branch of service issuing a discharge;
 2. A decal indicating whether the person's status is active duty, reserve duty, veteran, retired veteran, or widow; and, if applicable, a decal for auxiliary in the case of the Coast Guard or a decal for the Merchant Marines;
 3. A veteran's decal may further indicate a veteran's service in a wartime era; and
 4. A registration number.
- (b) Upon termination of membership in the active component or reserves of the United States Armed Forces or the United States Coast Guard, a person shall comply with the provisions of subsection (15) of this section.
- (c) The Transportation Cabinet, in coordination with the Department of Veterans' Affairs, shall promulgate an administrative regulation under KRS Chapter 13A defining criteria for the issuance of specific decals for veterans' wartime service.
- (15) Except for persons changing their status to retired, within thirty (30) days of termination of membership or reserve status in a group eligible for a special military-related license plate, a person issued a military plate under this section shall return the plate to the county clerk of the county of his residence. Upon payment of a three dollar (\$3) county clerk fee, the county clerk shall issue the person a regular license plate to replace the special military-related license plate being surrendered.
- (16) Upon the sale, transfer, or termination of a lease of a motor vehicle for which a special military-related license plate has been issued, the owner shall return the military plate and the certificate of registration to the county clerk. The county clerk shall issue a regular license plate and certificate of registration upon payment of a twelve dollar (\$12) state fee which includes the fifty cent (\$0.50) fee to reflectorize the plate under KRS 186.240(2)(c) and a three dollar (\$3) county clerk fee. The twelve dollar (\$12) state fee shall be forwarded to the Transportation Cabinet. Upon request and payment of a three dollar (\$3) fee, the county clerk shall reissue the special military-related license plate for use on any other vehicle owned by the same person who purchased the special plate for the current licensing period.
- (17) The cabinet shall promulgate administrative regulations to set forth the documentation required in order to establish a person's qualifications to receive any license plate issued under this section.
- (18) A person seeking a special military-related license plate for a vehicle provided to that person pursuant to an occupation shall conform to the requirements of KRS 186.050(14).
- (19) If a special military-related license plate is lost, stolen, mutilated, or deteriorates to the point where the inscriptions or decals are not discernible, the person to whom the plate was issued may obtain a replacement plate free of charge.

Approved March 15, 2001

CHAPTER 38

(HB 171)

AN ACT relating to reorganization.

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

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
 - (a) Department of Education.

- (1) Kentucky Board of Education.
- (2) Education Professional Standards Board.
- (b) Department for Libraries and Archives.
- (c) Kentucky Arts Council.
- (d) Kentucky Educational Television.
- (e) Kentucky Historical Society.
- (f) Kentucky Teachers' Retirement System Board of Trustees.
- (g) Kentucky Center for the Arts.
- (h) Kentucky Craft Marketing Program.
- (i) Kentucky Commission on the Deaf and Hard of Hearing.
- (j) Governor's Scholars Program.
- (k) Governor's School for the Arts.
- (l) Operations and Development Office.
- (m) Kentucky Heritage Council.
- (n) Kentucky African-American Heritage Commission.
- (o) Board of Directors for the Center for School Safety.
- 3. Natural Resources and Environmental Protection Cabinet:
 - (a) Environmental Quality Commission.
 - (b) Kentucky Nature Preserves Commission.
 - (c) Department for Environmental Protection.
 - (d) Department for Natural Resources.
 - (e) Department for Surface Mining Reclamation and Enforcement.
 - (f) Office of Legal Services.
 - (g) Office of Information Services.
 - (h) Office of Inspector General.
- 4. Transportation Cabinet:
 - (a) Department of Highways.
 - 1. Office of Program Planning and Management.
 - 2. Office of Project Development.
 - 3. Office of Construction and Operations.
 - 4. Office of Intermodal Programs.
 - 5. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Fiscal Management.
 - (e) Department of Rural and Municipal Aid.
 - (f) Department of Human Resources Management.
 - (g) Office of the Secretary.

- (h) Office of General Counsel and Legislative Affairs.
 - (i) Office of Public Affairs.
 - (j) Office of Transportation Delivery.
 - (k) Office of Minority Affairs.
 - (l) Office of Policy and Budget.
5. Cabinet for Economic Development:
- (a) Department of Administration and Support.
 - (b) Department for Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department of Community Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
- (a) Public Service Commission.
 - (b) Department of Insurance.
 - (c) Department of Housing, Buildings and Construction.
 - (d) Department of Financial Institutions.
 - (e) Department of Mines and Minerals.
 - (f) Department of Public Advocacy.
 - (g) Department of Alcoholic Beverage Control.
 - (h) Kentucky Racing Commission.
 - (i) Board of Claims.
 - (j) Crime Victims Compensation Board.
 - (k) Kentucky Board of Tax Appeals.
 - (l) Backside Improvement Commission.
 - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
 - (n) Department of Charitable Gaming.
7. Cabinet for Families and Children:
- (a) Department for Community Based Services.
 - (b) Department for Disability Determination Services.
 - (c) Public Assistance Appeals Board.
 - (d) Office of the Secretary.
 - (1) Kentucky Commission on Community Volunteerism and Service.
 - (e) Office of the General Counsel.
 - (f) Office of Program Support.
 - (g) Office of Family Resource and Youth Services Centers.
 - (h) Office of Technology Services.
 - (i) Office of the Ombudsman.

- (j) Office of Performance Enhancement.
- 8. Cabinet for Health Services.
 - (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission on Children with Special Health Care Needs.
 - (e) Office of Certificate of Need.
 - (f) Office of the Secretary.
 - (g) Office of the General Counsel.
 - (h) Office of Program Support.
 - (i) Office of the Inspector General.
 - (j) Office of Aging Services.
- 9. Finance and Administration Cabinet:
 - (a) Office of Legal and Legislative Services.
 - (b) Office of Management and Budget.
 - (c) Office of Financial Management.
 - (d) Office of the Controller.
 - (e) Department for Administration.
 - (f) Department of Facilities Management.
 - (g) State Property and Buildings Commission.
 - (h) Kentucky Pollution Abatement Authority.
 - (i) Kentucky Savings Bond Authority.
 - (j) Deferred Compensation Systems.
 - (k) Office of Equal Employment Opportunity Contract Compliance.
 - (l) Office of Capital Plaza Operations.
 - (m) County Officials Compensation Board.
 - (n) Kentucky Employees Retirement Systems.
 - (o) Commonwealth Credit Union.
 - (p) State Investment Commission.
 - (q) Kentucky Housing Corporation.
 - (r) Governmental Services Center.
 - (s) Kentucky Local Correctional Facilities Construction Authority.
 - (t) Kentucky Turnpike Authority.
 - (u) Historic Properties Advisory Commission.
 - (v) Kentucky Kare Health Insurance Authority.
 - (w) Kentucky Tobacco Settlement Trust Corporation.
- 10. Labor Cabinet:
 - (a) Department of Workplace Standards.

- (b) Department of Workers' Claims.
 - (c) Kentucky Labor-Management Advisory Council.
 - (d) Occupational Safety and Health Standards Board.
 - (e) Prevailing Wage Review Board.
 - (f) Workers' Compensation Board.
 - (g) Kentucky Employees Insurance Association.
 - (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.
 - (j) Kentucky Occupational Safety and Health Review Commission.
 - (k) Office of Administrative Services.
 - (l) Office of Labor-Management Relations and Mediation.
 - (m) Office of General Counsel.
 - (n) Workers' Compensation Funding Commission.
 - (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
 - (b) Department of Tax Administration.
 - (c) Office of Financial and Administrative Services.
 - (d) Department of Law.
 - (e) Department of Information Technology.
 - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
- (a) Department of Travel.
 - (b) Department of Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (d) Kentucky Horse Park Commission.
 - (e) State Fair Board.
 - (f) Office of Administrative Services.
 - (g) Office of General Counsel.
13. Cabinet for Workforce Development:
- (a) Department for Adult Education and Literacy.
 - (b) Department for Technical Education.
 - (c) Department of Vocational Rehabilitation.
 - (d) Department for the Blind.
 - (e) Department for Employment Services.
 - (f) State Board for Adult and Technical Education.
 - (g) The State Board for Proprietary Education.
 - (h) The Foundation for Adult Education.

- (i) ***Department for***~~Office of~~ Training and Reemployment.
 - (j) Office of General Counsel.
 - (k) Office of Communication Services.
 - (l) Office of Development and Industry Relations.
 - (m) Office of Workforce Analysis and Research.
 - (n) Office for Administrative Services.
 - (o) Office for Policy and Budget.
 - (p) Office of Personnel Services.
 - (q) Unemployment Insurance Commission.
14. Personnel Cabinet:
- (a) Office of Administrative and Legal Services.
 - (b) Department for Personnel Administration.
 - (c) Department for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Kentucky Kare.
 - (f) Division of Performance Management.
 - (g) Division of Employee Records.
 - (h) Division of Staffing Services.
 - (i) Division of Classification and Compensation.
 - (j) Division of Employee Benefits.
 - (k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Council on Postsecondary Education.
- 3. Department for Local Government.
- 4. Kentucky Commission on Human Rights.
- 5. Kentucky Commission on Women.
- 6. Department of Veterans' Affairs.
- 7. Kentucky Commission on Military Affairs.
- 8. The Governor's Office for Technology.
- 9. Commission on Small Business Advocacy.

Section 2. KRS 151B.020 is amended to read as follows:

- (1) The Cabinet for Workforce Development is hereby created, which shall constitute a cabinet of the state government within the meaning of KRS Chapter 12. The cabinet shall consist of a secretary and those administrative bodies and employees as provided by law.
- (2) The cabinet, subject to the provisions of KRS Chapter 12, shall be composed of the major organizational units listed below, and other departments, divisions, and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet:
 - (a) The Department for Adult Education and Literacy, which is created by KRS 151B.023;

- (b) The Department for Technical Education, which is created by KRS 151B.025;
 - (c) The Department of Vocational Rehabilitation, which is created by KRS 151B.185;
 - (d) The Department for the Blind, established by KRS 163.470;
 - (e) The Department for Employment Services, which is created by KRS 151B.280;
 - (f) The State Board for Adult and Technical Education, which is created by KRS 151B.095;
 - (g) The State Board for Proprietary Education, established by KRS 165A.340;
 - (h) The Foundation for Adult Education, established by KRS 151B.130;
 - (i) The Unemployment Insurance Commission established by KRS 341.110; *and*
 - (j) The ***Department for***~~Office of~~ Training and Reemployment created in KRS 151B.260~~;~~ *and*
 - ~~(k) The Office of School to Work, established by KRS 151B.250.~~
- (3) The executive officer of the cabinet shall be the secretary of the Cabinet for Workforce Development. The secretary shall be appointed by the Governor pursuant to KRS 12.040 and shall serve at the pleasure of the Governor. The secretary shall have general supervision and direction over all activities and functions of the cabinet and its employees and shall be responsible for carrying out the programs and policies of the cabinet. The secretary shall be the chief executive officer of the cabinet and shall have authority to enter into contracts, subject to the approval of the secretary of the Finance and Administration Cabinet, when the contracts are deemed necessary to implement and carry out the programs of the cabinet. The secretary shall have the authority to require coordination and nonduplication of services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. sec. 9201 et seq. The secretary shall have the authority to mandate fiscal responsibility dispute resolution procedures among state organizational units for services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. sec. 9201 et seq. The Office of the Secretary of the Cabinet for Workforce Development shall consist of the Offices of General Counsel, Communication Services, Development and Industry Relations, Workforce Analysis and Research, the Office for Policy and Budget, the Office of Personnel Services, and the Office for Administrative Services. The Office for Administrative Services shall contain the Divisions of Fiscal Services, Computer Services, and Facilities Management. Each division shall be headed by a director appointed by the secretary of the Cabinet for Workforce Development pursuant to KRS 12.050.
- (4) The secretary of the Cabinet for Workforce Development and his designated representatives, in the discharge of the duties of the secretary, may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.
- (5) The secretary of the Cabinet for Workforce Development may delegate any duties of his office to employees of the cabinet as he deems necessary and appropriate, unless otherwise prohibited by statute.
- (6) The secretary of the Cabinet for Workforce Development shall promulgate, administer, and enforce administrative regulations that are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds, and that are necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

Section 3. KRS 151B.250 is amended to read as follows:

- (1) It is the intent of the General Assembly to create and support a School-to-Careers System that involves business, labor, education, and government to prepare students for careers in an ever-changing economy.
- (2) ***The Department for Technical Education within***~~It is the intent of the General Assembly that the Office of School to Work attached to the office of the secretary of~~ the Cabinet for Workforce Development ***shall*** coordinate ***the School-to-Work effort***~~its efforts~~ with the Kentucky Department of Education~~in the implementation of this overall effort~~. As the School-to-Work effort is a federally supported program that fits within the overall mission of the School-to-Careers System, it is critical that collaboration and coordination occur. The following elements shall be coordinated when possible:
 - (a) Planning and partner involvement of business, labor, education, government, community-based organizations, employers, parents, and students;

- (b) Career awareness, exploration, preparation, and guidance incorporated in the school curriculum;
- (c) A comprehensive system approach from the primary through postsecondary levels with all students having the opportunity to participate;
- (d) Applied learning experiences;
- (e) Integration of academic and occupational education;
- (f) Performance assessment;
- (g) Actual or simulated learning at the school or the worksite;
- (h) Curriculum based on skill standards representing all aspects of an industry;
- (i) Secondary to postsecondary articulation;
- (j) Postsecondary articulation; and
- (k) Professional development opportunities for all partners.

(3) ~~The executive director of the Office of School-to-Work shall be appointed by the secretary of the Cabinet for Workforce Development pursuant to KRS 12.050.~~

(4) ~~The~~ **Department for Technical Education** ~~{Office of School-to-Work}~~ may promulgate administrative regulations establishing policy for the development and implementation of a school-to-work transition system.

(4) ~~(5)~~ The **Department for Technical Education** ~~{Office of School-to-Work}~~ shall comply with the provisions of the federal School-to-Work Opportunities Act, Pub.L. 103-239 as it is amended from time to time.

Section 4. KRS 151B.260 is amended to read as follows:

The **Department for** ~~{Office of}~~ Training and Reemployment is hereby created and established within the Cabinet for Workforce Development. ~~{The Office of Training and Reemployment shall be attached to the Office of the Secretary of the Cabinet for Workforce Development.}~~ The **Department for** ~~{Office of}~~ Training and Reemployment shall be headed by **a commissioner** ~~{an executive director}~~ who shall be appointed by the **Governor under KRS 12.040** ~~{secretary pursuant to KRS 12.050}~~.

Section 5. The General Assembly hereby confirms Executive Order 2000-1623, dated December 29, 2000, relating to the Cabinet for Workforce Development, to the extent not otherwise confirmed by this Act, which: renames and elevates the Office of Training and Reemployment, to the Department for Training and Reemployment, the department to be headed by a commissioner appointed by the Governor in accordance with KRS 12.040; the Department for Training and Reemployment shall be the agency solely designated for the purpose of assuming the role of administrative entity for Title I programs funded under the Workforce Investment Act passed by Congress on August 7, 1998, and implemented in the Commonwealth on July 1, 1999. Executive Order 2000-1623 further creates the Division of Workforce Investment within the Department for Training and Reemployment to be headed by a director appointed by the secretary under KRS 12.050; and, abolishes the Office of School-to-Work. All organizational units, personnel, records, equipment, duties, responsibilities, and funds shall be distributed, transferred, or otherwise disbursed in accordance with Executive Order 2000-1623, and any Administrative Order necessary to effectuate the implementation of that Executive Order.

Approved March 15, 2001

CHAPTER 39

(HB 166)

AN ACT relating to reorganization.

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

Section 1. KRS 36.010 is amended to read as follows:

The Department of Military Affairs shall be attached to the Office of the Governor, have charge of and be responsible to the Governor for the proper functioning of the Kentucky National Guard, militia, and all other military or naval matters of the state, and shall consist of the following offices and divisions:

(1) Office of Management and Administration, containing the:

- (a) Division of Administrative Services;
- (b) Division of Facilities;
- (c) Bluegrass Station Division;~~and~~
- (d) Division of Air Transport; *and*
- (e) ***Logistics Operations Division;***

(2) Division of Emergency Management;

(3) Office of the Chief of Staff for Federal Army Guard;

(4) Office of the Chief of Staff for Federal Air Guard;

(5) Kentucky Guard Youth Challenge Division; and

(6) Kentucky Civil Air Patrol.

In order to promote greater efficiency, economy, and improved administration, the divisional structure of the Department of Military Affairs may be changed, redesignated, or reorganized in accordance with KRS Chapter 12. Notwithstanding KRS Chapter 12, the department's attachment to the Office of Governor as a separate organizational unit not attached to any cabinet shall not be changed except by action of the General Assembly.

SECTION 2. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

- (1) ***The logistics operations division shall be headed by a director appointed by the Governor in accordance with KRS 12.050. The division shall be composed of organizational entities deemed appropriate by the adjutant general and set forth by administrative order.***
- (2) ***The logistics operations division shall provide logistical services to federal defense agencies under contract or program memorandum of agreement between those agencies and the Department of Military Affairs.***

Section 3. KRS 36.040 is amended to read as follows:

The adjutant general shall:

- (1) Represent the Governor in all military matters pertaining to the Commonwealth of Kentucky;
- (2) Be the executive head of the Department of Military Affairs and exercise all functions vested by law in the department;
- (3) ***Establish the internal organizational structure of the major organizations of the department;***
- (4) ***Organize and supervise all programs, functions, and personnel assigned to the department in accordance with all state and federal statutes and administrative regulations;***
- (5) Be responsible to the Governor for the proper carrying into effect of all laws, rules, and regulations of the United States and of this state affecting the militia and other military organizations established by law;
- ~~(6)(4)~~ Perform the duties prescribed for him by laws of the United States and regulations issued thereunder;
- ~~(7)(5)~~ Direct and supervise the chiefs of staff departments and supervise all troops and all departments, arms, and branches of the Kentucky Army and Air National Guard;
- ~~(8)(6)~~ Supervise the preparation of all returns and reports of the Department of Military Affairs;
- ~~(9)(7)~~ Keep a register of all the officers of the Kentucky National Guard, and make a written report to the Governor for the annual period ending on June 30 of each year of the operations and conditions of the Department of Military Affairs;
- ~~(10)(8)~~ Cause to be prepared and issued all necessary blank books, forms, and notices required to carry into full effect matters assigned to the adjutant general under the provisions of KRS Chapters 36, 37, and 38;
- ~~(11)(9)~~ Direct and supervise the safekeeping and repairing of the ordnance, arms, accouterments, equipment, and all other military property belonging to the state or issued to it by the United States;
- ~~(12)(10)~~ Notify the Finance and Administration Cabinet of all military property of the state which after inspection is found unsuitable for use of the cabinet;

- (13)~~(11)~~ Keep an account of:
- (a) All expenses, including pay of officers and enlisted men, allowance to officers and organizations;
 - (b) Any other moneys required to be disbursed by him and through his office, including subsistence and transportation of the National Guard; and
 - (c) All military property of the United States.
- (14)~~(12)~~ Issue and make requisitions for military property under the direction of the Governor, but no military property shall be issued to persons or organizations other than those belonging to the National Guard, except to such portion of the Kentucky active militia as is called out by the Governor;
- (15)~~(13)~~ Maintain as a part of his office a Bureau of War Records in which all records pertaining to wars and relics shall be kept, and be custodian of all such records, relics, colors, standards, and battle flags now the property of the state, or in its possession, or which the state may hereafter acquire;
- (16)~~(14)~~ Organize units of the National Guard at places designated by the Governor and have the members mustered into service under regulations prescribed by the Governor;
- (17)~~(15)~~ Issue all regulations, orders, and directives for the proper functioning and utilization of the Department of Military Affairs and its divisions; and
- (18)~~(16)~~ Hire, discharge, and pay any personnel that the adjutant general deems necessary to fulfill defense contracts without regard to KRS Chapter 18A.

Section 4. The General Assembly confirms Executive Order 2000-1628, dated December 29, 2000, to the extent it is not otherwise confirmed or superseded by this Act.

Approved March 15, 2001

CHAPTER 40

(HB 167)

AN ACT relating to reorganization.

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

Section 1. The General Assembly hereby confirms Executive Order 2000-1621, dated December 29, 2000, which transfers the funds, personnel, records, and assets of the Toxicology Section of the Division of Laboratory Services, Department for Public Health, Cabinet for Health Services, to the Division of Kentucky State Medical Examiners Office, referred to as the Division of the Kentucky Medical Examiner, Justice Cabinet.

Approved March 15, 2001

CHAPTER 41

(HB 13)

AN ACT relating to retirement.

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

Section 1. KRS 61.637 is amended to read as follows:

- (1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.515 to 61.705 and 78.520 to 78.852 and who is reemployed as an employee by a participating agency prior to August 1, 1998, shall have his retirement payments suspended for the duration of reemployment~~[except as provided in subsection (7) of this section]~~. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

- (2) Employer and employee contributions shall be made as provided in KRS 61.515 to 61.705 and 78.520 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar (\$1), and the member shall be credited with additional service credit.
- (3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.
- (4)
 - (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment;
 - (b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment;
 - (c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:
 - 1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;
 - 2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);
 - 3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;
 - 4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691;
 - 5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.
- (5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents (\$0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar (\$1) for every three dollars (\$3) earned if over age sixty-five (65).
- (6)
 - (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095; and
 - (b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.
- ~~(7) If a member is retired from a hazardous position, as defined by KRS 61.592, the member shall be permitted to seek and hold an elected city or county office under the provisions of this subsection:~~
 - ~~(a) The member may receive the pay for the elected city or county office but shall not contribute to, receive benefits from, or otherwise participate in the office's retirement system; and~~

~~(b) The member's pension and benefits received because of retirement from the hazardous position shall not be affected if he holds an elected city or county office.~~

~~(8)~~ Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.

~~(8)~~~~(9)~~ Any former recipient of a disability retirement allowance from the Kentucky Retirement Systems who had at least two hundred forty (240) months of service credit and whose disability retirement allowance was terminated September 1, 1998, who is reemployed as of July 14, 2000, shall be treated under the provisions of subsections (1) to (4) of this section, except that the maximum permissible earnings as used in subsection (1) shall be the maximum permissible earnings under the Federal Social Security Act for calendar year 1998.

~~(9)~~~~(10)~~ A retired member or his employer shall notify the retirement system if he has accepted employment with an agency that participates in the retirement system from which the member retired.

~~(10)~~~~(11)~~ If the retired member is under a contract, the member shall submit a copy of that contract to the retirement system, and the retirement system shall determine if the member is an independent contractor for purposes of retirement benefits.

~~(11)~~~~(12)~~ If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him prior to his voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.

~~(12)~~~~(13)~~ (a) 1. A retired member of the Kentucky Employees Retirement System or the State Police Retirement System who, after initial retirement, is hired by an agency that participates in the Kentucky Employees Retirement System or the State Police Retirement System shall be considered to have been hired by the same employer.

2. If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his retirement and the member shall repay to the retirement system all benefits received for the month.

(b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.

~~(13)~~~~(14)~~ (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age sixty-five (65), is reemployed within six (6) months of the member's initial retirement date by the same employer, the member shall obtain from his previous and current employers a copy of the job description established by the employers for the position and a statement of the duties performed by the member for the position from which he retired and for the position in which he has been reemployed.

(b) The job descriptions and statements of duties shall be filed with the retirement office.

~~(14)~~~~(15)~~ If the retirement system determines that the retired member has been employed in a position with the same principal duties as the position from which the member retired:

(a) The member's retirement allowance shall be suspended during the period that begins on the month in which the member is reemployed and ends six (6) months after the member's initial retirement date.

(b) The retired member shall repay to the retirement system all benefits that the member received after reemployment began.

- (c) Upon termination, or subsequent to expiration of the six (6) month period from the date of initial retirement, the retired member's retirement allowance based on his initial retirement account shall no longer be suspended and the member shall receive the amount to which he is entitled, including an increase as provided by KRS 61.691.
- (d) Except as provided in subsection (7) of this section, if the position in which a retired member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a second member account established for him in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account.
- (e) Upon termination, the retired member shall be entitled to benefits payable from his second retirement account.
- ~~(15)(16)~~ (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he retired, the retired member shall continue to receive his retirement allowance.
- (b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.
- ~~(16)(17)~~ (a) If a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age, the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.
- (b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.
- ~~(17)(18)~~ A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 which he was eligible to purchase prior to his initial retirement.

SECTION 2. A NEW SECTION OF KRS 78.520 TO 78.852 IS CREATED TO READ AS FOLLOWS:

Any other provision of law to the contrary notwithstanding, all retired hazardous members in an elected city or county office on the effective date of this Act shall contribute to the County Employees Retirement System unless they elect not to participate within sixty (60) days of the effective date of this Act. Members who begin participating under the provisions of this section may purchase credit for service in the elected city or county office between July 15, 1998, and the effective date of this Act, by paying to the system one hundred percent (100%) of the cost of the service.

Approved March 15, 2001

CHAPTER 42

(HB 99)

AN ACT relating to telecommunications.

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

Section 1. KRS 65.7629 is amended to read as follows:

The board shall administer the provisions of KRS 65.7621 to 65.7643, and shall have the following powers and duties:

- (1) To review, evaluate, and approve or disapprove the plans or plan modifications that are submitted to the board for complying with the wireless E911 service requirements established by the FCC order and by any rules or regulations which are or may be adopted by the Federal Communications Commission in carrying out the FCC order;
- (2) To develop standards to be followed by the board in reviewing, evaluating, approving, or disapproving the plans or plan modifications that are submitted to the board;
- (3) To collect the CMRS service charge from each CMRS connection within the Commonwealth. The CMRS service charge shall be seventy cents (\$0.70) per month per CMRS connection, and shall be collected in

accordance with KRS 65.7635 beginning August 15, 1998. The amount of the CMRS service charge shall not be increased except by act of the General Assembly;

- (4) To review the rate of the CMRS service charge at least once every ***twenty-four (24)***~~eighteen (18)~~ months and, at its discretion, to decrease the rate or recommend that the General Assembly increase the rate if the board determines that changing the rate is necessary to achieve the purposes of KRS 65.7621 to 65.7643. The first cost study shall be completed on or before July 1, 1999, and shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives, and the board shall recommend, on the basis of the cost study, whether legislation to increase the CMRS service charge should be proposed during the 2000 Regular Session of the General Assembly;
- (5) To administer and maintain the CMRS fund according to the provisions of KRS 65.7627, and promptly to deposit all revenues from the CMRS service charge into the CMRS fund;
- (6) To make disbursements from the CMRS fund, according to the allocations and requirements established in KRS 65.7631;
- (7) To establish procedures and guidelines to be followed by the board in reviewing, evaluating, and approving or disapproving disbursements from the CMRS fund and requests for disbursements made in accordance with KRS 65.7631;
- (8) To resolve conflicts regarding reimbursable costs and expenses under KRS 65.7631(2) and (3);
- (9) To submit annual reports to the Auditor of Public Accounts no later than sixty (60) days after the close of each fiscal year, which shall provide an accounting for all CMRS service charges deposited into the CMRS fund during the preceding fiscal year and all disbursements to CMRS providers and PSAPs during the preceding fiscal year;
- (10) To employ consultants, engineers, and other persons and employees as may be, in the judgment of the board, essential to the board's operations, functions, and responsibilities, and to fix and pay their compensation from funds available to the CMRS board;
- (11) To acquire, by gift, purchase, installment purchase, or lease, any equipment necessary to carry out the board's purposes and duties;
- (12) To retain any and all information, including all proprietary information, that is submitted to the board by CMRS providers and PSAPs, for the purposes of maintaining it and verifying its accuracy;
- (13) To retain, with approval by the Auditor of Public Accounts, an independent certified public accountant who shall audit, once every ***twenty-four (24)***~~eighteen (18)~~ months, the books of the board, CMRS providers, and PSAPs eligible to request or receive disbursements from the CMRS fund under KRS 65.7631 for the following purposes:
 - (a) To verify the accuracy of collection, receipts, and disbursements of all revenues derived from the CMRS service charge and the number of wireless E911 calls received by each PSAP eligible to request or receive disbursements from the CMRS fund;~~and~~
 - (b) To determine whether the revenues generated by the CMRS service charge equal, exceed, or are less than the costs incurred in order to comply with the FCC order; ***and***
 - (c) ***To determine the sufficiency of the funds currently being withheld for administrative purposes under Section 2(1) of this Act.***

The independent certified public accountant shall make a report of the audits to the board and to the appropriate chief executive officer or officers of the CMRS providers and PSAPs. The board shall incorporate the auditor's findings in its studies of the CMRS service charge required by subsection (4) of this section. All information with respect to the audits shall be released to the public or published only in aggregate amounts which do not identify or allow identification of numbers of subscribers or revenues attributable to individual CMRS providers;

- (14) To ensure that all carriers have an equal opportunity to participate in the wireless E911 system;~~and~~
- (15) To ensure that wireless E911 systems are compatible with wireline E911 systems; ***and***

(16) To determine the appropriate method for disbursing funds to PSAP's based on wireless workload under Section 2(2)(b) of this Act.

Section 2. KRS 65.7631 is amended to read as follows:

The moneys in the CMRS fund shall be apportioned among the approved uses of the fund as specified in this section. The board shall make individual disbursements from the fund upon such terms and conditions necessary in view of the amount of revenues on deposit at the time each request for disbursement is reviewed and approved.

- (1) Not more than two and one-half percent (2.5%) of the total monthly revenues deposited into the CMRS fund shall be disbursed or reserved for disbursement by the board to pay the administrative costs and expenses incurred in the operation of the board, including the compensation of the administrator and expenses incurred pursuant to KRS 65.7629(10), (11), ~~and~~ (13), **and (16). An additional sum, not to exceed two hundred fifty thousand dollars (\$250,000), shall be available to the board from the fund to implement the wireless workload formula under subsection (2)(b) of this section.**
- (2) From the balance of the total monthly revenues deposited into the CMRS fund after the amounts disbursed or reserved for disbursement under subsection (1) of this section have been subtracted, fifty percent (50%) shall be distributed to PSAPs eligible to receive disbursement from the CMRS fund under subsection (4) of this section who actually request disbursement, as follows:
 - (a) Twenty-five percent (25%) shall be distributed according to the "PSAP pro rata formula," whereby each receives a percentage determined by dividing one (1) by the total number of PSAPs eligible to request and actually requesting disbursements under subsection (4) of this section. **Any PSAPs that choose to consolidate their operations after July 15, 1998, shall have a twenty-four (24) month period in which they shall continue to receive pro-rata shares as if they remained separate and distinct entities. The twenty-four (24) month period shall run from a date set by the board. The consolidated entity must be certified to receive funds under subsection (4) of this section; and**
 - (b) Twenty-five percent (25%) shall be distributed according to **a method chosen by the board and based on the wireless workload of the PSAP. Methods to be considered may be based on the number of wireless 911 calls answered by each PSAP, the number of wireless phone users served by each PSAP, or any other method deemed by the board to be reasonable and equitable. The method chosen shall be promulgated as a regulation under KRS 65.7633**~~the "PSAP volume formula," whereby each receives a percentage determined by dividing the number of wireless E911 calls received by that PSAP in the previous quarter by the total number of wireless E911 calls received in the previous quarter by all PSAPs located within the boundaries of the Commonwealth that are eligible to receive and actually requesting disbursements under subsection (4) of this section~~.

All amounts distributed to PSAPs under this subsection shall be used by the PSAPs solely for the purposes of answering, routing, and properly disposing of CMRS 911 calls, **training PSAP staff, public education concerning appropriate use of 911**, and of complying with the wireless E911 service requirements established by the FCC order and any rules and regulations which are or may be adopted by the Federal Communications Commission pursuant to the FCC order, including the payment of costs and expenses incurred in designing, upgrading, purchasing, leasing, programming, testing, installing, or maintaining all necessary data, hardware, and software required in order to provide wireless E911 service.

- (3) The balance of the total monthly revenues deposited into the CMRS fund which remains after the disbursements or disbursement reservations prescribed by subsections (1) and (2) of this section have been made shall be distributed to CMRS providers licensed to do business in the Commonwealth solely for the purpose of reimbursing the actual expenses incurred by the CMRS providers in complying with the wireless E911 service requirements established by the FCC order and any rules and regulations which are or may be adopted by the Federal Communications Commission in carrying out the FCC order, including, but not limited to, costs and expenses incurred for designing, upgrading, purchasing, leasing, programming, testing, installing, or maintaining all necessary data, hardware, and software required in order to provide wireless E911 service. Sworn invoices shall be presented to the board in connection with any request for reimbursement under this subsection, and approval by a majority vote of the board shall be required prior to any disbursement, which approval shall not be withheld unreasonably. **No payment shall be made to any provider who is not in compliance with all requirements of this chapter and the FCC order.** In no event shall any invoice for reimbursement be approved for payment of costs that are not related to compliance with requirements established by the FCC order, or for payment of any costs incurred by a CMRS provider exceeding one hundred twenty-five percent (125%) of the CMRS emergency service charges remitted by that CMRS provider,

unless prior approval for the expenditures was given by the CMRS Board. If the total amount of invoices submitted to the CMRS Board and approved for payment exceeds the amount in the CMRS fund in any month, CMRS providers that have invoices approved for payment shall receive a pro rata share of the fund available that month, based on approved invoices, and the balance of the payments shall be carried over to the following months until all of the approved payments are made.

- (4) Notwithstanding any other provision of the law, no PSAP shall be eligible to request or receive a disbursement from the CMRS fund under subsection (2) of this section unless and until the PSAP:
- (a) Is expressly certified as a PSAP by the CMRS Board, upon written application to the CMRS Board;
 - (b) Demonstrates that the PSAP is providing 911 services to a local government that has adopted an ordinance either imposing a special tax, license, or fee as authorized by KRS 65.760(3) or has established other means of funding wireline 911 emergency telephone service;
 - (c) Demonstrates that the administrator of the PSAP sent a request for wireless, E911 service to a CMRS provider, and that the infrastructure of the local exchange carrier will support wireless E911 service;
 - (d) Provides an accounting of the number of wireless E911 calls received by the PSAP during the prior calendar year *if requested by the board*; and
 - (e) Either demonstrates that the PSAP has made the investment which is necessary to allow the PSAP to receive and utilize the data elements associated with wireless E911 service, or provides to the board a binding resolution, duly adopted by the governing authority of the PSAP, committing the PSAP to expend funds to lease or purchase emergency telephone equipment, including necessary computer hardware and software, for database provisioning, for addressing, and for the other nonrecurring costs of establishing wireless E911 service.

Section 3. KRS 65.7639 is amended to read as follows:

Each CMRS provider shall provide customer mobile handset telephone numbers and names to PSAPs when required by the board. Each CMRS provider *may be required to* ~~shall~~ provide a quarterly report to the board of the number of *subscribers receiving bills in each zip code served by the provider* ~~calls the provider forwarded to each PSAP~~ during that quarter *if needed*. Funds from the CMRS fund may be used to pay for the costs associated with providing this information. Although customer mobile handset telephone numbers and names shall be available to PSAPs, and to the board, this information shall remain the property of the disclosing CMRS provider and shall be used only in providing emergency response services to 911 calls *and in collecting the service charge from subscribers*. Mobile handset telephone numbers and names which are required to be provided under this section constitute confidential proprietary information and shall not be released to any person for purposes other than for including the numbers and names in the emergency telephone system database, *for purposes related to the collection of the service charge*, and for providing the numbers and names to permit a response to police, fire, medical, or other emergency situations. Notwithstanding any other provision of the law, no ~~proprietary~~ information provided to PSAPs under this section shall be *disclosed* ~~subject to subpoena of the PSAP or otherwise released to any person~~ other than to the submitting CMRS provider, the administrator, the board, and the independent certified public accountant retained by the board under KRS 65.7629(13) without the express permission of the submitting CMRS provider *unless ordered by a court of competent jurisdiction*. General information collected by the independent certified public accountant shall only be released or published in aggregate amounts which do not identify or allow identification of numbers of subscribers or revenues attributable to an individual CMRS provider.

Section 4. The CMRS Board shall conduct a study of equity issues surrounding the distribution of the PSAP portion of the fund and report to the Legislative Research Commission on or before January 1, 2003. Questions to be addressed shall include:

- (a) Whether rural, low call-volume PSAPs are receiving more funds than are necessary to maintain operations; and
- (b) Whether an alternate funding formula should be adopted to replace the current pro rata/wireless workload formula.

Approved March 15, 2001

CHAPTER 43

(HB 48)

AN ACT relating to motorcycles.

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

Section 1. KRS 186.450 is amended to read as follows:

- (1) A person who is at least sixteen (16) years of age may apply for an instruction permit to operate a motor vehicle. ***A person who possesses a valid motor vehicle operators' license or a person who is at least eighteen (18) years of age may apply for an instruction permit to operate a motorcycle. A holder of either a motor vehicle or motorcycle instruction permit may also operate a moped under that permit. A person applying for an instruction permit under this section shall make application***~~[-, motorcycle, or moped]~~ in the office of the circuit clerk in the county where the person lives. A person applying for an instruction permit shall be required to comply with the following:
 - (a) If the person is under the age of eighteen (18), the instruction permit application shall be signed by the applicant's parent or legal guardian. If the person does not have a living parent or does not have a legal guardian, the instruction permit application shall be signed by a person willing to assume responsibility for the applicant pursuant to KRS 186.590; and
 - (b) All applicants for an instruction permit shall comply with the examinations required by KRS 186.480.
- (2) If an applicant successfully passes the examinations required by KRS 186.480, the applicant shall be issued an instruction permit upon payment of a six dollar (\$6) fee pursuant to KRS 186.531.
- (3) An instruction permit shall be valid for one (1) year and may be renewed. A person under the age of twenty-one (21) at the time of application for an instruction permit shall have the instruction permit a minimum of one hundred eighty (180) days before applying for an operator's license. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit shall have the instruction permit a minimum of thirty (30) days before applying for an operator's license.
- (4) A person shall have the instruction permit in his possession at all times when operating a motor vehicle, motorcycle, or moped upon the highway. When operating a motor vehicle, ***a motor vehicle***~~an~~ instruction permit holder shall be accompanied by a person with a valid operator's license who is at least twenty-one (21) years of age occupying the seat beside the operator at all times.
- (5) A person with an instruction permit who is under the age of eighteen (18) shall not operate a motor vehicle, motorcycle, or moped between the hours of 12 midnight and 6 a.m. unless the person can demonstrate good cause for driving including, but not limited to, emergencies, involvement in school related activities, or involvement in work related activities.
- (6) A person under the age of eighteen (18) who accumulates more than six (6) points against his driving privilege may have the driving privilege suspended pursuant to KRS Chapter 186 or probated by the court.
- (7) An applicant for relicensing after revocation shall pay the clerk a fee of twenty-five dollars (\$25). The twenty-five dollar (\$25) fee shall not apply to any person whose license was suspended for failure to meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated and persons reinstated pursuant to KRS 159.051.

Section 2. KRS 186.010 is amended to read as follows:

- (1) "Cabinet," as used in KRS 186.400 to 186.640, means the Transportation Cabinet; except as specifically designated, "cabinet," as used in KRS 186.020 to 186.270, means the Transportation Cabinet only with respect to motor vehicles, other than commercial vehicles; "cabinet," as used in KRS 186.020 to 186.270, means the Department of Vehicle Regulation when used with respect to commercial vehicles.
- (2) "Highway" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license, or privilege, for the purpose of vehicular traffic.
- (3) "Manufacturer" means any person engaged in manufacturing motor vehicles who will, under normal conditions during the year, manufacture or assemble at least ten (10) new motor vehicles.

- (4) "Motor vehicle" means in KRS 186.020 to 186.260, all vehicles, as defined in paragraph (a) of subsection (8) of this section, which are propelled otherwise than by muscular power. As used in KRS 186.400 to 186.640, it means all vehicles, as defined in paragraph (b) of subsection (8) of this section, which are self-propelled. "Motor vehicle" shall not include a moped as defined in this section.
- (5) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.
- (6) "Operator" means any person in actual control of a motor vehicle upon a highway.
- (7)
 - (a) "Owner" means a person who holds the legal title of a vehicle or a person who pursuant to a bona fide sale has received physical possession of the vehicle subject to any applicable security interest.
 - (b) A vehicle is the subject of an agreement for the conditional sale or lease, with the vendee or lessee entitled to possession of the vehicle, upon performance of the contract terms, for a period of three hundred sixty-five (365) days or more and with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, the conditional vendee or lessee or mortgagor shall be deemed the owner.
 - (c) A licensed motor vehicle dealer who transfers physical possession of a motor vehicle to a purchaser pursuant to a bona fide sale, and complies with the requirements of KRS 186A.220, shall not be deemed the owner of that motor vehicle solely due to an assignment to his dealership or a certificate of title in the dealership's name. Rather, under these circumstances, ownership shall transfer upon delivery of the vehicle to the purchaser, subject to any applicable security interest.
- (8)
 - (a) "Vehicle," as used in KRS 186.020 to 186.260, includes all agencies for the transportation of persons or property over or upon the public highways of this Commonwealth and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the city limit of any municipality.
 - (b) As used in KRS 186.400 to 186.640, "vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human and animal power or used exclusively upon stationary rails or tracks, or which derives its power from overhead wires.
- (9) KRS 186.020 to 186.270 apply to motor vehicle licenses. KRS 186.400 to 186.640 apply to operator's licenses.
- (10) "Dealer" means any person engaging in the business of buying or selling motor vehicles.
- (11) "Commercial vehicles" means all motor vehicles that are required to be registered under the terms of KRS 186.050, but not including vehicles primarily designed for carrying passengers and having provisions for not more than nine (9) passengers (including driver), motorcycles, sidecar attachments, pickup trucks and passenger vans which are not being used for commercial or business purposes, and motor vehicles registered under KRS 186.060.
- (12) "Resident" means any person who has taken up a place of abode within this state; or any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date on which his motor vehicle is registered or required to be registered in Kentucky; or any person maintaining a place of abode in this state for gainful employment; provided, however, that the Transportation Cabinet may promulgate administrative regulations exempting any person temporarily maintaining a place of abode in Kentucky, including a full-time student at Kentucky colleges and universities, from any requirement

imposed by this chapter upon residents as defined in this chapter. The possession by an operator of a vehicle of a valid Kentucky operator's license shall be prima-facie evidence that the operator is a resident of Kentucky.

- (13) *"Instruction permit" includes both motor vehicle instruction permits and motorcycle instruction permits.*
- (14) *"Motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three (3) wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride in an enclosed cab and excluding a moped as defined in this section.*

Section 3. KRS 189.285 is amended to read as follows:

- (1) A person shall not operate a motorcycle on a highway:
 - (a) Except when that person is in possession of a valid motorcycle operator's license; and
 - (b) Unless that person uses an approved eye-protective device, in the manner prescribed by the secretary of the Transportation Cabinet, at all times such vehicle is in motion; and
 - (c) Unless the motorcycle is equipped with a rear-view mirror.
- (2) A person shall not operate or ride as a passenger on a motorcycle:
 - (a) Except on a seat permanently attached to that vehicle and specifically designed to carry the operator or passenger in a safe manner; and
 - (b) Except when using a footrest permanently attached to that vehicle and specifically designed to carry that person in a safe manner.
- (3) The following persons shall be required to wear protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times the motorcycles they are riding are in motion on a public highway:
 - (a) A person under the age of twenty-one (21) years who is operating a motorcycle or who is a passenger on a motorcycle or in a sidecar attachment;
 - (b) A person who possesses a motorcycle instruction permit and who is operating a motorcycle; and
 - (c) A person who has held a valid motorcycle operator's license, or combination motor vehicle-motorcycle operator's license, for less than one (1) year and who is operating a motorcycle.
- (4) A motorcycle operator authorized to drive a motorcycle on an instruction permit shall not be authorized to carry passengers.
- (5) The secretary of the Transportation Cabinet shall by regulation fix minimum standards for approved protective headgear and for approved eye-protective devices, and prescribe the manner in which they shall be used. The secretary shall maintain and cause to be published a list of approved protective headgear and of approved eye-protective devices. The secretary may prescribe by regulation minimum standards for other protective devices and require the use of those devices.
- (6) As used in this chapter:
 - (a) ~~and KRS Chapter 186, and~~ "Motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three (3) wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride in an enclosed cab and excluding a moped as defined in this *subsection; and* ~~section.~~
 - (b) ~~(7)~~ "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

Section 4. KRS 186.875 is amended to read as follows:

- (1) The program shall offer motorcycle rider training courses designed to develop and instill the knowledge, attitudes, habits, and skills necessary for the proper operation of a motorcycle. The courses shall be taught by

instructors approved under KRS 186.880 and shall include no fewer than eight (8) hours of hands-on instruction for a novice course.

- (2) Rider training courses shall be open to any resident of the state who ~~who either holds a current valid driver's license for any classification or who~~ is eligible for a *motor vehicle*~~{motorcycle}~~ instruction permit.
- (3) ***Rider training courses shall be provided free of charge to applicants under eighteen (18) years of age.***
- (4) The cabinet shall issue certificates of completion in a manner and form prescribed by administrative regulations promulgated pursuant to KRS Chapter 13A to persons who satisfactorily complete the requirements of a motorcycle rider training course offered or authorized by the state program.
- (5)~~(4)~~ The cabinet may exempt applicants for a motorcycle driver's license or endorsement from the licensing skill test if they present satisfactory evidence of successful completion of an approved rider training course that includes a similar test of skill.

Section 5. KRS 186.890 is amended to read as follows:

- (1) The motorcycle safety education program fund is established in the state road fund and appropriated on a continual basis to the cabinet to administer the moneys. Money in the fund shall be used for administration and implementation of the program, including reimbursement of entities that offer approved motorcycle rider education courses.
- (2) If at the end of each fiscal year money remains in the fund, it shall be retained in the fund and shall not revert to the road fund. The interest and income earned on money in the fund, after deducting any applicable charges, shall be credited to the motorcycle safety education fund.
- (3) The following revenue shall be credited to the fund:
 - (a) Four dollars (\$4) of the annual registration fee for each registered motorcycle as provided in KRS 186.050;
 - (b) Four dollars (\$4) of the application fee for a motorcycle instruction permit as provided in KRS 186.531;~~and~~
 - (c) Four dollars (\$4) of the fee for each original or renewal motorcycle driver's license or endorsement as provided in KRS 186.531; ***and***
 - (d) ***Any federal or state motorcycle safety funds granted to the program.***

Approved March 15, 2001

CHAPTER 44

(HB 143)

AN ACT relating to environmental audits.

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

Section 1. KRS 224.01-040 is amended to read as follows:

- (1) As used in this section:
 - (a) "Environmental audit" means a voluntary, internal, and comprehensive evaluation of one (1) or more facilities or an activity at one (1) or more facilities regulated under this chapter, or federal, regional, or local counterparts or extensions thereof, or of management systems related to that facility or activity, that is designed to identify and prevent noncompliance and to improve compliance with statutory or regulatory requirements. An environmental audit may be conducted by the owner or operator, by the owner's or operator's employees, or by independent contractors.
 - (b) "Environmental audit report" means a set of documents, each labeled "environmental audit report: privileged document" and prepared as a result of an environmental audit. An environmental audit report may include field notes and records of observations, findings, suggestions, conclusions, drafts, memoranda, drawings, photographs, computer-generated or electronically recorded information, maps,

charts, graphs, and surveys, provided the supporting information is collected or developed for the primary purpose and in the course of an environmental audit. An environmental audit report, when completed, shall have three (3) components:

1. An audit report prepared by an auditor, which shall include the scope and date of the audit and the information gained in the audit together with exhibits and appendices, and may include conclusions and recommendations;
 2. Memoranda and documents analyzing part or all of the audit report and discussing implementation issues; and
 3. An audit implementation plan that addresses correcting past noncompliance, improving current compliance, and preventing future noncompliance.
- (c) "Voluntary disclosure" means the prompt reporting to the cabinet by the owner or operator of a facility of the voluntary discovery of a violation of this chapter or the administrative regulations promulgated pursuant thereto prior to:
1. The commencement of a federal, state, or local agency inspection or investigation, or the issuance by that agency of an information request to the owner or operator of the facility;
 2. The filing of a notice of a citizen suit filed under federal or state law;
 3. The filing of a complaint by a third party;
 4. The reporting to a federal, state, or local agency of the violation by an employee who is not authorized to speak on behalf of the facility; or
 5. The imminent discovery of the violation by a regulatory agency.
- (d) "Voluntary discovery" means the discovery of a violation of this chapter or the administrative regulations promulgated pursuant thereto by the owner or operator of a facility if:
1. The violation was discovered by an environmental audit; and
 2. The violation was not identified through a legally mandated monitoring or sampling requirement prescribed by statute, administrative regulation, permit, judicial or administrative order, agreed order, consent decree, or plea bargain.
- (2) In order to encourage owners and operators of facilities and persons conducting other activities regulated under this chapter, or its federal, regional, or local counterparts or extensions, both to conduct voluntary internal environmental audits of their compliance programs and management systems and to assess and improve compliance with statutory and regulatory requirements, an environmental audit privilege is created to protect the confidentiality of communications relating to voluntary internal environmental audits.
- (3) An environmental audit report shall be privileged and shall not be admissible as evidence in ~~any legal action in any civil, criminal, or administrative proceeding, except as provided in subsection (4) and (5) of this section.~~ **subsection (4)** ~~and (5)~~ of this section.
- (4) The privilege described in subsection (3) of this section does not apply to the extent that:
- (a) It is waived expressly or waived by implication by the owner or operator of a facility or persons conducting an activity that prepared or caused to be prepared the environmental audit report;
 - (b) The owner or operator of a facility or person conducting an activity seeks to introduce an environmental audit report as evidence. Seeking to introduce any part of the report shall constitute waiver of the privilege described in subsection (3) of this section for the entire report;
 - (c) In a civil or administrative proceeding, a court of record, after a private review consistent with the Kentucky Rules of Civil Procedure, shall require disclosure of material for which the privilege described in subsection (3) of this section is asserted, if the court determines that:
 1. The privilege is asserted for a fraudulent purpose;
 2. The material is not subject to the privilege; or

3. Even if subject to the privilege, the material shows evidence of noncompliance with this chapter, or with the federal, regional, or local counterparts or extensions thereof, and appropriate efforts to achieve compliance were not promptly initiated and pursued with reasonable diligence.
- (d) ~~In a criminal proceeding, a court of record, after a private review as described in subsection (5) of this section, shall require disclosure of material for which the privilege described in subsection (3) of this section is asserted, if the court determines that:~~
1. ~~The privilege is asserted for a fraudulent purpose;~~
 2. ~~The material is not subject to the privilege;~~
 3. ~~Even if subject to the privilege, the material shows evidence of noncompliance with this chapter, or with the federal, regional, or local counterparts or extensions thereof, and appropriate efforts to achieve compliance were not promptly initiated and pursued with reasonable diligence; or~~
 4. ~~The material contains evidence relevant to commission of an offense under subsection (3), (4), (6), (10), or (11) of KRS 224.99 010, and the prosecuting authority has a need for the information.~~
- (e) A party asserting the environmental audit privilege in subsection (3) of this section has the burden of proving the privilege, including, if there is evidence of noncompliance with this chapter, or the federal, regional, or local counterparts or extensions thereof, proof that appropriate efforts to achieve compliance were promptly initiated and pursued with reasonable diligence. A party seeking disclosure under subsection (4)(c)1. of this section has the burden of proving that the privilege is asserted for a fraudulent purpose. ~~The prosecuting authority seeking disclosure under subsection (4)(d)4. of this section has the burden of proving the conditions for disclosure set forth in subsection (4)(d)4. of this section. The party seeking disclosure under subsection (4)(d)1. of this section has the burden of proving that the privilege is asserted for a fraudulent purpose.~~
- (5) (a) ~~The prosecuting authority, having probable cause to believe an offense has been committed under subsection (3), (4), (6), (10), or (11) of KRS 224.99 010, based upon information obtained from a source independent of an environmental audit report, may obtain an environmental audit report for which a privilege is asserted under subsection (3) of this section pursuant to a search warrant, criminal subpoena, or discovery as allowed by the Kentucky Rules of Criminal Procedure or any applicable statute. The prosecuting authority shall immediately place the report under seal and shall not review or disclose its contents.~~
- (b) ~~Within twenty (20) days of the prosecuting authority obtaining an environmental audit report, the owner or operator who prepared or caused to be prepared the report, or the prosecuting authority, may file with the appropriate court a petition requesting a private hearing on whether the environmental audit report or portions thereof are privileged under this section or subject to disclosure. Failure by the owner or operator to file such a petition shall waive the privilege.~~
- (c) ~~Upon filing a petition, the court shall issue an order scheduling a private hearing, within thirty (30) days of the filing of the petition, to determine whether the environmental audit report or parts of the report are privileged under this section or subject to disclosure. The order shall also allow the prosecuting authority immediately to remove the seal from the report and to review the entire report and shall place appropriate limitations on distribution and review of the report to protect against unnecessary disclosure. The prosecuting authority may consult with enforcement agencies regarding the contents of the report as necessary to prepare for the private hearing. However, the information used in preparation for the private hearing shall not be used in any investigation or in any proceeding against the defendant, and shall otherwise be kept confidential, unless and until the information is found by the court to be subject to disclosure.~~
- (d) ~~The parties may at any time stipulate to the entry of an order directing that specific information contained in an environmental audit report is or is not subject to the privilege provided under subsection (3) of this section.~~
- (e) ~~Upon making a determination under subsection (4)(c) of this section, the court may compel the disclosure only of those portions of an environmental audit report relevant to issues in dispute in the proceeding.]~~

- (5)~~(6)~~ The privilege described in subsection (3) of this section shall not extend to:
- (a) Documents, communications, data, reports, or other information required to be collected, developed, maintained, reported, or made available to **the public or** a regulatory agency pursuant to this chapter, or administrative regulations promulgated pursuant thereto, or other federal, state, or local law, ordinance, regulation, permit, or order, and any information developed relating to any release subject to KRS 224.01-400(19);
 - (b) Information obtained by observation, sampling, or monitoring by any regulatory agency;~~or~~
 - (c) Information obtained from a source independent of the environmental audit; **or**
 - (d) **Any criminal proceeding.**
- (6)~~(7)~~ Nothing in this section shall limit, waive, or abrogate the scope or nature of any statutory or common-law privilege, including the work-product doctrine and the attorney-client privilege.
- (7)~~(8)~~ Nothing in this section shall limit, waive, or abrogate any reporting requirement in accordance with this chapter or permit conditions.
- ~~(9) An environmental audit report found subject to disclosure under subsection (4)(c) of this section shall not be deemed privileged in any criminal proceeding.~~
- (8)~~(10)~~ The cabinet shall not seek a civil penalty against a facility for a violation of this chapter or the administrative regulations promulgated pursuant thereto if:
- (a) The owner or operator has made voluntary disclosure to the cabinet of the voluntary discovery of the violation;
 - (b) The owner or operator has corrected the violation within sixty (60) days of voluntary discovery, unless a shorter period of time is necessary to protect human health, safety, or the environment, or the cabinet determines that a longer period of time is necessary to correct the violation and approves a longer period of time and the owner or operator is taking the steps necessary to correct the violation as soon as possible;
 - (c) The owner or operator has agreed in writing to take steps to prevent a recurrence of the violation;
 - (d) The specific violation, or closely related violation;
 - 1. Has not occurred within the past three (3) years at the facility;
 - 2. Is not part of a pattern of violations of federal, state, or local law occurring within the past five (5) years identified in a judicial or administrative order, consent agreement, or agreed order, complaint, notice of violation, conviction, or plea agreement; and
 - 3. Is not an act or omission for which the facility has received penalty mitigation from a federal, state, or local agency;
 - (e) The violation is not one which resulted in serious actual harm, or presented an imminent and substantial endangerment to human health or the environment, or violated the terms of a judicial or administrative order, consent decree or agreed order, or plea agreement;~~and~~
 - (f) **The violation is not one which resulted in significant economic benefit which gives to the violator a clear advantage over its business competitors; and**
 - (g) The owner or operator of the facility cooperates as requested by the cabinet and provides information as necessary to determine the applicability of this section.
- (9) **The condition contained in subsection (8)(f) of this section shall not apply to voluntary disclosures made prior to the effective date of this Act.**
- (10)~~(11)~~ Nothing in this section shall be construed to abridge the right of any person to recover actual damages resulting from any violation.

Approved March 15, 2001

CHAPTER 45**(HB 30)**

AN ACT relating to special license plates.

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

Section 1. KRS 186.041 is amended to read as follows:

- (1) The provisions of this section shall govern the issuance of all special military-related license plates. ***Except as provided in subsection (9) of this section,*** a person who wants to purchase a special military-related license plate shall apply to the county clerk in the county where the person lives on a form prescribed by the Transportation Cabinet. Each initial and renewal application shall be accompanied by proof that the person is associated with the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Coast Guard, United States Coast Guard Auxiliary, Kentucky National Guard, Merchant Marines with service between December 7, 1941, and August 15, 1945, or Civil Air Patrol in one (1) of the following ways:
 - (a) An active component member;
 - (b) A retired member; or
 - (c) A veteran who received a discharge under honorable conditions, or the veteran's widow and:
 1. Performed twenty-four (24) months of active-duty service;
 2. Received an early release due to injuries or other medical condition, or at the convenience of the service;
 3. Received a hardship discharge;
 4. Was separated or retired due to a disability; or
 5. Was determined to have a service-connected disability incurred during the enlistment.
- (2) Initial registration and renewal registration fees for special military-related license plates shall be charged as provided in this subsection:
 - (a) Disabled veterans and recipients of the Congressional Medal of Honor licensed under subsection (5) of this section shall not be charged an initial registration fee and shall not be charged a renewal registration fee. The license plate and certificate of registration shall be issued free of charge;
 - (b) The initial registration fee shall be a seventeen dollar (\$17) state fee that shall be divided under the provisions of subsection (3) of this section and that includes the cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar (\$3) county clerk fee, and the renewal registration fee shall be a three dollar (\$3) county clerk fee for:
 1. Former prisoners of war licensed under subsection ~~(11)~~~~(10)~~ of this section;
 2. Survivors of Pearl Harbor licensed under subsection ~~(12)~~~~(11)~~ of this section; and
 3. Members of the National Guard licensed under subsection ~~(13)~~~~(12)~~ of this section.
 - (c) The initial registration fee shall be a seventeen dollar (\$17) state fee that shall be divided under the provisions of subsection (3) of this section, and the renewal registration fee shall be a twelve dollar (\$12) state fee that includes the cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar (\$3) county clerk fee for:
 1. Disabled veterans licensed under subsection (6) of this section;
 2. Purple Heart recipients licensed under subsection ~~(10)~~~~(9)~~ of this section, except that if a Purple Heart recipient also qualifies as a disabled veteran under subsection (5) of this section, the Purple Heart recipient may receive either a Purple Heart or a disabled veteran's license plate, both initial and renewal, and the certificate of registration free of charge;

3. Members of the Civil Air Patrol licensed under subsection ~~(14)~~~~(13)~~ of this section; and
 4. Other active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Merchant Marines licensed under subsection ~~(15)~~~~(14)~~ of this section.
- (d) Recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross licensed under subsection (9) of this section shall be charged an initial registration fee and a renewal registration fee of three dollars (\$3.00) that shall be retained by the county clerk. A recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross licensed under subsection (9) of this section shall not be charged a state fee when initially receiving the plate or upon annual renewal of the plate.*
- (3) The initial state fee collected under subsections (2)(b) and (2)(c) of this section shall be divided between the Transportation Cabinet and the Department of Veterans' Affairs. The Transportation Cabinet shall receive twelve dollars (\$12) of the initial state fee and the Department of Veterans' Affairs shall receive five dollars (\$5) of the initial state fee. The county clerk shall forward money collected under subsections (2)(b) and (2)(c) of this section to the Department of Veterans' Affairs on a quarterly basis and the department shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b). A person renewing a special military license plate issued under this section may donate five dollars (\$5) to support the veteran's program trust fund. Money donated under this subsection shall be paid to the county clerk who shall forward the money on a quarterly basis to the Department of Veterans' Affairs and the department shall deposit the money into the veteran's program trust fund established by KRS 40.460(2)(b).
 - (4) A special military-related license plate may be issued for use on a passenger car registered under KRS 186.050(1) or for a commercial vehicle registered under KRS 186.050(3)(a) that has a gross laden weight of six thousand (6,000) pounds or less. Except as provided in subsection (7) of this section, a license plate issued under this section shall have the renewal registration decal issued annually during the applicant's birth month. License plates issued under this section shall be a five (5) year license plate. The member, retired member, veteran, or reservist may purchase two (2) special military-related license plates annually for vehicles they own or lease.
 - (5) A recipient of the Congressional Medal of Honor, *a recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross*, or a disabled veteran who has been or shall be given financial assistance toward the purchase or lease of a motor vehicle by the United States Department of Veterans Affairs under the provisions of 38 U.S.C. sec. 1901, or any other public law that may be passed by the Congress of the United States shall initially and annually be issued a certificate of registration and a special military-related license plate free of charge.
 - (6) A veteran who has been declared to be at least seventy percent (70%) disabled by the United States Department of Veterans Affairs and has not received financial assistance from the United States Department of Veterans Affairs toward the purchase or lease of a motor vehicle shall be eligible for a disabled veterans license plate upon payment of the initial registration fee required in subsection (2)(c) of this section.
 - (7) A disabled veterans license plate shall be printed in red, white, and blue colors. Half of the license plate shall be in one (1) color, the other half a second color, and the figures and lettering in the third color. Each plate shall contain the international symbol of access adopted by Rehabilitation International in 1969, the name of the state, the year, the registration number, and the words "Disabled Vet." A disabled veterans license plate shall have the renewal registration decal issued annually on July 31.
 - (8) A recipient of the Congressional Medal of Honor shall be eligible for a Congressional Medal of Honor license plate that shall be printed in blue and white colors and shall follow the color scheme for all figures and letters as prescribed for passenger cars. Each plate shall contain the name or an abbreviation of the state and the words "Medal of Honor" and a number uniquely identifying each recipient, in lieu of registration numbers.
 - (9) *A recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross shall be eligible for a Service Cross license plate upon submission of an application to the Kentucky Department of Veterans' Affairs. The recipient shall be required to include with the initial application for a Service Cross license plate a copy of the general order that authorized the award and the recipient's Department of Defense form number 214. The Department of Veterans' Affairs shall verify the documentation submitted with the application for a Service Cross license plate, and if the individual applying for the plate is confirmed to be a recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross, the Department of Veterans' Affairs shall submit the applicant's name to the Transportation Cabinet's Division of Motor Vehicle Licensing not later*

than September 1 preceding the year that the Service Cross license plate is to be initially issued or renewed. When the Service Cross license plate is ready, the plate shall be sent to the county clerk in the county of the applicant's residence. The Transportation Cabinet's Division of Motor Vehicle Licensing shall inform each applicant in writing that the Service Cross license plate is ready and may be picked up at the county clerk's office. Each Service Cross license plate shall contain the name or an abbreviation for the state and an alphabetic or numeric designation uniquely identifying each recipient of a Service Cross license plate in lieu of registration numbers. The Transportation Cabinet shall have the authority to select three (3) designs and the appropriate color scheme for each design of the Service Cross license plate. In addition to the requirements of this subsection, the Transportation Cabinet shall have the authority to include other information on the Service Cross license plate. The Transportation Cabinet shall prescribe the type of application form required by this subsection and shall supply the Department of Veterans' Affairs with the application form required by this subsection.

- (10) A recipient of a Purple Heart medal shall be eligible for a Purple Heart license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Purple Heart license plate shall bear the name "Purple Heart," a registration number, and an appropriate logo to be determined by the Transportation Cabinet.
- ~~(11)(10)~~ A person who is a former prisoner of the enemy during World War I, World War II, the Korean War, or the Vietnam War, or the spouse of a deceased former prisoner of war, shall be eligible for a former prisoner of war license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. The application shall be accompanied by written proof from the United States Department of Veterans Affairs or other appropriate federal agency stating the period of time the person or person's spouse was a prisoner of war. A former prisoner of war license plate shall be printed in red, white, and blue colors. Each plate shall contain the name of the state, the year, the registration number, and the words "Former P.O.W." If a former prisoner of war dies with a vehicle licensed as authorized under this section, the person's surviving spouse may retain the license plate for use on the same vehicle or on another vehicle that complies with the provisions of subsection (4) of this section.
- ~~(12)(11)~~ A person who is certified by the Kentucky chapter of the Pearl Harbor Survivors Association as being a survivor of the attack on Pearl Harbor shall be eligible for a Pearl Harbor license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. The Transportation Cabinet shall issue an applicant an appropriately designed plate identifying the vehicle as registered to a Pearl Harbor survivor. The person shall be required to attach to the special military-related license plate application written evidence from the Kentucky chapter of the Pearl Harbor Survivors Association that the person:
- (a) Was a member of the United States Armed Forces on December 7, 1941;
 - (b) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m., Hawaii time, at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three (3) miles;
 - (c) Was discharged honorably from the United States Armed Forces; and
 - (d) Is certified by the Kentucky chapter of the Pearl Harbor Survivors Association.
- ~~(13)(12)~~ A person who is a member of the Kentucky National Guard, or a retired member, shall be eligible for a National Guard license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. A National Guard license plate shall bear the name "Kentucky National Guard," a registration number, and the logo of the National Guard. Upon termination of membership in the Kentucky National Guard, except for those who remain eligible through retirement, a person shall comply with the provisions of subsection ~~(16)(15)~~ of this section.
- ~~(14)(13)~~ A person who is a member of the Civil Air Patrol shall be eligible for a Civil Air Patrol license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Civil Air Patrol license plate shall bear the name "Civil Air Patrol," a registration number, and an appropriate logo to be determined by the Transportation Cabinet. Upon termination of membership in the Civil Air Patrol, a person shall comply with the provisions of subsection ~~(16)(15)~~ of this section.
- ~~(15)(14)~~ (a) A person who meets the requirements of subsection (1) of this section shall be eligible for a military license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. The plate shall bear:

1. A seal indicating Army, Navy, Air Force, Marine Corps, or Coast Guard, or, in the case of the Merchant Marines, a seal indicating the branch of service issuing a discharge;
 2. A decal indicating whether the person's status is active duty, reserve duty, veteran, retired veteran, or widow; and, if applicable, a decal for auxiliary in the case of the Coast Guard or a decal for the Merchant Marines;
 3. A veteran's decal may further indicate a veteran's service in a wartime era; and
 4. A registration number.
- (b) Upon termination of membership in the active component or reserves of the United States Armed Forces or the United States Coast Guard, a person shall comply with the provisions of subsection ~~(16)(15)~~ of this section.
- (c) The Transportation Cabinet, in coordination with the Department of Veterans' Affairs, shall promulgate an administrative regulation under KRS Chapter 13A defining criteria for the issuance of specific decals for veterans' wartime service.
- ~~(16)(15)~~ Except for persons changing their status to retired, within thirty (30) days of termination of membership or reserve status in a group eligible for a special military-related license plate, a person issued a military plate under this section shall return the plate to the county clerk of the county of his residence. Upon payment of a three dollar (\$3) county clerk fee, the county clerk shall issue the person a regular license plate to replace the special military-related license plate being surrendered.
- ~~(17)(16)~~ Upon the sale, transfer, or termination of a lease of a motor vehicle for which a special military-related license plate has been issued, the owner shall return the military plate and the certificate of registration to the county clerk. The county clerk shall issue a regular license plate and certificate of registration upon payment of a twelve dollar (\$12) state fee which includes the fifty cent (\$0.50) fee to reflectorize the plate under KRS 186.240(2)(c) and a three dollar (\$3) county clerk fee. The twelve dollar (\$12) state fee shall be forwarded to the Transportation Cabinet. Upon request and payment of a three dollar (\$3) fee, the county clerk shall reissue the special military-related license plate for use on any other vehicle owned by the same person who purchased the special plate for the current licensing period.
- ~~(18)(17)~~ The cabinet shall promulgate administrative regulations to set forth the documentation required in order to establish a person's qualifications to receive any license plate issued under this section.
- ~~(19)(18)~~ A person seeking a special military-related license plate for a vehicle provided to that person pursuant to an occupation shall conform to the requirements of KRS 186.050(14).
- ~~(20)(19)~~ If a special military-related license plate is lost, stolen, mutilated, or deteriorates to the point where the inscriptions or decals are not discernible, the person to whom the plate was issued may obtain a replacement plate free of charge.

Section 2. KRS 189.4595 is amended to read as follows:

- (1) Any other provision of law to the contrary notwithstanding, a city, county, town, or other political subdivision of this state shall not require any license or fee from a disabled veteran, ~~or~~ recipient of the Congressional Medal of Honor, **or recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross** who has been issued a special military-related license plate under KRS 186.041, for the privilege of operating a motor vehicle upon any street or alley.
- (2) When a motor vehicle bearing a special military-related license plate for disabled veterans, ~~or~~ recipients of the Congressional Medal of Honor, **or recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross** is being operated by or for the benefit of the person, the motor vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities unless a local ordinance or police regulation:
 - (a) Prohibits parking on a highway for the purpose of creating a fire lane;
 - (b) Provides for the accommodation of heavy traffic during morning, afternoon, or evening hours; or
 - (c) Prohibits parking a motor vehicle in a manner as to clearly be a traffic hazard.

Approved March 15, 2001

CHAPTER 46**(HB 20)**

AN ACT relating to agriculture.

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

Section 1. KRS 246.010 is amended to read as follows:

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

- (1) "Board" means the state Board of Agriculture;
- (2) "Commissioner" means the Commissioner of Agriculture;
- (3) "Department" means the Department of Agriculture;
- (4) "Owner" means any individual, firm, partnership, corporation, organization, association, or any combination thereof who owns a business for the purpose of applying paint to structures of any nature by means of spray equipment of any kind; ~~and~~
- (5) "Structure" means a building erected as a shelter for human beings, animals or agricultural products, equipment, or supplies;
- (6) ***"Agriculture" means the business of raising or producing:***
 - (a) ***Crops, the products of which are used for food, feed, fiber, energy, or pharmaceuticals;***
 - (b) ***Horticulture products;***
 - (c) ***Tobacco;***
 - (d) ***Aquaculture products;***
 - (e) ***Livestock, poultry, and ratite birds and eggs;***
 - (f) ***Milk and milk products;***
 - (g) ***Eggs and egg products;***
 - (h) ***Bees and bee products; and***
 - (i) ***Timber;***
- (7) ***"Horticulture" means the business of raising fruits, nuts, vegetables, flowers, ornamental plants, shrubs, trees, herbs, and the starts or transplants needed to produce these items;***
- (8) ***"Aquaculture" means the science, art, and business of producing and raising aquatic organisms under controlled or semicontrolled conditions;***
- (9) ***"Livestock" means cattle, sheep, swine, goats, horses, llamas, buffaloes, or any other animals of the bovine, ovine, porcine, caprine, or equine species; and***
- (10) ***"Poultry" means chickens, ducks, turkeys, or other domestic fowl being raised or kept on any premises in the Commonwealth for profit.***

Approved March 15, 2001

CHAPTER 47**(HB 95)**

AN ACT relating to reorganization

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

Section 1. KRS 11.550 is amended to read as follows:

- (1) The Telehealth Board is created and placed for administrative purposes under the Governor's Office for Technology. This ~~nine (9)~~~~seven (7)~~ member board shall consist of the:
 - (a) Chancellor, or a designee, of the medical school at the University of Kentucky;
 - (b) Chancellor, or a designee, of the medical school at the University of Louisville;
 - (c) Commissioner, or a designee, of the Department for Public Health;
 - (d) Chief information officer, or a designee, of the Governor's Office for Technology; and
 - (e) **Five (5)**~~Three (3)~~ members at large, appointed by the Governor, who are health professionals or third parties as those terms are defined in KRS 205.510. To ensure representation of both groups, no more than **three (3)**~~two (2)~~ health professionals or two (2) third parties shall be members of the board at the same time. These members shall serve a term of four (4) years, may serve no more than two (2) consecutive terms, and shall be reimbursed for their costs associated with attending board meetings.
- (2) The members shall elect a chair and hold bimonthly meetings or as often as necessary for the conduct of the board's business.
- (3) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to:
 - (a) Establish telehealth training centers at the University of Kentucky, University of Louisville, the pediatric-affiliated hospitals at the University of Kentucky and the University of Louisville, and one (1) each in western Kentucky and eastern Kentucky, with the sites to be determined by the board;
 - (b) Develop a telehealth network, to coordinate with the training centers, of no more than twenty-five (25) rural sites, to be established based on the availability of funding and in accordance with criteria set by the board. In addition to these rural sites, the board may identify, for participation in the telehealth network, ten (10) local health departments, five (5) of which shall be administered by the University of Kentucky and five (5) of which shall be administered by the University of Louisville;
 - (c) Establish protocols and standards to be followed by the training centers and rural sites; and
 - (d) Maintain the central link for the network with the Kentucky information highway.
- (4) The board shall, following consultation with the Governor's Office for Technology, recommend the processes and procedures for the switching and running of the telehealth network.
- (5) The University of Kentucky and the University of Louisville shall report semiannually to the Interim Joint Committee on Health and Welfare on the following areas as specified by the board through an administrative regulation promulgated in accordance with KRS Chapter 13A.
 - (a) Data on utilization, performance, and quality of care;
 - (b) Quality assurance measures, including monitoring systems;
 - (c) The economic impact on and benefits to participating local communities; and
 - (d) Other matters related to telehealth at the discretion of the board.
- (6) The board shall receive and dispense funds appropriated for its use by the General Assembly or obtained through any other gift or grant.

Section 2. The General Assembly confirms Executive Order 2000-1213, dated September 12, 2000, relating to the Telehealth Board, to the extent it is not otherwise confirmed by this Act.

Approved March 15, 2001

CHAPTER 48

(HB 62)

AN ACT relating to tuition assistance.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) *Tuition and mandatory student fees for any public postsecondary institution, including all four (4) year universities and colleges and institutions of the Kentucky Community and Technical College System, shall be waived for a Kentucky foster or adopted child who is a full-time student if:*
 - (a) *The student meets all entrance requirements for the postsecondary institution;*
 - (b) *The student maintains academic eligibility while enrolled at the postsecondary institution; and*
 - (c) *The student is over age eighteen (18) and the student's family receives state-funded adoption assistance under KRS 199.555, is currently placed in foster care by the Cabinet for Families and Children or the Department of Juvenile Justice; is in an independent living program; was in the custody of the Cabinet for Families and Children or the Department of Juvenile Justice prior to being adopted by a family that resides in Kentucky; or was in the custody of the Cabinet for Families and Children or the Department of Juvenile Justice on his or her eighteenth birthday.*
- (2) *Upon request of the postsecondary institution, the Cabinet for Families and Children shall confirm the status of the student seeking to participate in the waiver program. Release of this information shall not constitute a breach of confidentiality required by KRS 620.050.*
- (3) *The student shall complete the Free Application for Federal Student Aid to determine the level of need and eligibility for state and federal financial aid programs. If the sum of the tuition waiver plus other student financial assistance, except loans, from all sources exceeds the student's total cost of attendance, as defined in 20 U.S.C. sec. 1087l, the tuition waiver shall be reduced by the amount exceeding the total cost of attendance.*
- (4) *The student shall be eligible for the tuition waiver:*
 - (a) *For entrance to the institution for a period of no more than four (4) years after the date of graduation from high school; and*
 - (b) *For a period of five (5) years after admittance to an institution if satisfactory progress is achieved or maintained.*
- (5) *No later than six (6) months after the effective date of this Act, the Cabinet for Families and Children shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement provisions of subsection (2) of this section.*
- (6) *Nothing in this section shall be construed to:*
 - (a) *Guarantee acceptance of or entrance into any postsecondary institution for a foster or adopted child;*
 - (b) *Limit the participation of a foster or adopted child in any other program of financial assistance for postsecondary education; or*
 - (c) *Require any postsecondary institution to waive costs or fees relating to room and board.*

Approved March 15, 2001

CHAPTER 49

(HB 121)

AN ACT relating to public library facilities construction bond authorization and making an appropriation therefor.

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

Section 1. 2000 Kentucky Acts Chapter 549, PART I, OPERATING BUDGET, Section d. EDUCATION, ARTS AND HUMANITIES CABINET, at pages 3304 to 3306, is amended to read as follows:

D. EDUCATION, ARTS, AND HUMANITIES CABINET

Budget Units

25. OFFICE OF THE SECRETARY

2000-01

2001-02

General Fund	2,769,500	3,251,500
Restricted Funds	70,400	70,400
Total	2,839,900	3,321,900

Included in the above General Fund appropriation is \$4,100 in fiscal year 2000-2001 and \$4,200 in fiscal year 2001-2002 for operating expenses related to the Martin Luther King Jr. Commission.

Included in the above General Fund appropriation is \$1,231,400 in fiscal year 2000-2001 and \$1,570,000 in fiscal year 2001-2002 for the Governor's Scholars Program.

Included in the above General Fund appropriation is \$400,000 in fiscal year 2000-2001 and \$405,000 in fiscal year 2001-2002 for the Governor's School for the Arts.

26. KENTUCKY ARTS COUNCIL

	2000-01	2001-02
General Fund	4,801,700	4,895,500
Restricted Funds	448,500	456,500
Federal Funds	600,000	611,300
Total	5,850,200	5,963,300

27. TEACHERS' RETIREMENT SYSTEM

	2000-01	2001-02
General Fund	75,829,500	82,222,300
Restricted Funds	5,696,400	6,021,000
Total	81,525,900	88,243,300

General Fund moneys are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 to 161.716, notwithstanding the provisions of KRS 161.550.

The above General Fund appropriation, in conjunction with those included elsewhere within this Act for the Teachers' Retirement System, is based upon estimated funds needed to meet the requirements of KRS 161.220 to 161.716, notwithstanding KRS 161.550. If these combined General Fund appropriations are in excess of these requirements, the excess funds shall lapse to the credit of the General Fund.

In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent (4%) of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund moneys are provided in fiscal year 2000-2001 or fiscal year 2001-2002 for the cost of administration.

Included in the above General Fund appropriation is \$2,311,500 in fiscal year 2000-2001 and \$5,925,000 in fiscal year 2001-2002 to provide, when combined with the annual one and one-half percent (1.5%) retirement allowance increase as provided for under KRS 161.620, a total increase in retirement allowances of eligible system members and beneficiaries of two and three-tenths percent (2.3%) in fiscal year 2000-2001 and an additional two and one-half percent (2.5%) in fiscal year 2001-2002.

Included in the above General Fund appropriation is \$3,698,800 in fiscal year 2000-2001 and \$7,886,400 in fiscal year 2001-2002 to provide the cost of amortizing the requirements of KRS 161.155 (sick leave) for members retiring during the 2000-2002 biennium.

28. SCHOOL FACILITIES CONSTRUCTION COMMISSION

	2000-01	2001-02
General Fund	72,145,200	79,030,500

Included in the above General Fund appropriation is \$70,107,700 in fiscal year 2000-2001 and \$70,687,300 in fiscal year 2001-2002 for debt service for bonds previously issued.

Included in the above General Fund appropriation is \$1,800,000 in fiscal year 2000-2001 and \$8,100,000 in fiscal year 2001-2002 for debt service for previously authorized bonds.

The School Facilities Construction Commission is authorized to make an additional \$100,000,000 in offers of assistance during the 2000-2002 biennium in anticipation of debt service availability during the 2002-2004 biennium. No bonded indebtedness based on the above amount is to be incurred during the 2000-2002 biennium.

29. DEAF AND HARD OF HEARING

	2000-01	2001-02
General Fund	875,700	898,600
Restricted Funds	200,000	200,000
Total	1,075,700	1,098,600

30. KENTUCKY HERITAGE COUNCIL

	2000-01	2001-02
General Fund	978,100	977,600
Restricted Funds	246,800	256,300
Federal Funds	795,800	795,800
Total	2,020,700	2,029,700

Included in the above General Fund appropriation is \$50,000 in fiscal year 2000-2001 for Underground Railroad research and documentation.

31. KENTUCKY EDUCATIONAL TELEVISION

	2000-01	2001-02
General Fund	15,141,900	17,063,300
Restricted Funds	1,146,300	1,226,500
Federal Funds	700,000	700,000
Total	16,988,200	18,989,800

Included in the above General Fund appropriation is \$1,564,000 in fiscal year 2001-2002 for debt service on new projects.

32. KENTUCKY HISTORICAL SOCIETY

	2000-01	2001-02
General Fund	6,260,200	6,502,700
Restricted Funds	521,400	643,400
Federal Funds	111,100	413,100
Total	6,892,700	7,559,200

33. LIBRARIES AND ARCHIVES

a. General Operations

	2000-01	2001-02
General Fund	6,796,100	7,663,300
Restricted Funds	1,822,600	1,879,700
Federal Funds	1,684,900	1,724,700
Total	10,303,600	11,267,700

Included in the above General Fund appropriation is \$230,000 in fiscal year 2001-2002 for debt service on new projects.

b. Direct Local Aid

	2000-01	2001-02
General Fund	6,675,500	6,675,500
Restricted Funds	9,000	9,000
Federal Funds	576,000	576,000
Total	7,260,500	7,260,500

Included in the above General Fund appropriation is \$3,669,500 in each fiscal year to award per capita grants at the rate of seventy-three cents, notwithstanding KRS 171.201. ***Included in the above General Fund appropriation for fiscal year 2001-2002 is \$1,075,000 for debt service for Public Library Facilities Construction Fund to assist local libraries with debt service for new library facilities and improvements. The Department for Libraries and Archives is authorized to enter into long-term written memoranda of agreement with local libraries to assist in debt service for newly authorized bonds or other financial instruments up to a total of \$10,150,000 as provided in this section.***

TOTAL - LIBRARIES AND ARCHIVES

	2000-01	2001-02
General Fund	13,471,600	14,338,800
Restricted Funds	1,831,600	1,888,700
Federal Funds	2,260,900	2,300,700
Total	17,564,100	18,528,200

34. KENTUCKY CENTER FOR THE ARTS

	2000-01	2001-02
General Fund	640,500	655,900

35. ENVIRONMENTAL EDUCATION COUNCIL

	2000-01	2001-02
Restricted Funds	150,000	150,000

TOTAL - EDUCATION, ARTS, AND HUMANITIES CABINET

	2000-01	2001-02
General Fund	192,913,900	209,836,700
Restricted Funds	10,311,400	10,912,800
Federal Funds	4,467,800	4,820,900
TOTAL	207,693,100	225,570,400

Section 2. 2000 Kentucky Acts Chapter 549, PART II, CAPITAL PROJECTS, BUDGET, Section D. EDUCATION, ARTS AND HUMANITIES CABINET, at pages 3336 to 3337, is amended to read as follows:

D. EDUCATION, ARTS, AND HUMANITIES CABINET

Budget Unit	2000-01	2001-02
1. Libraries and Archives		
a. Document Management Digitization System		
Bond Funds	1,188,000	
b. Feasibility Study - New Archives Building		
General Fund	200,000	
c. <i>Public Library Facilities Construction Fund</i>		

	<i>Bond Funds</i>	<i>10,150,000</i>	
2.	Kentucky Educational Television		
a.	DTV-HDTV Broadcast Transmission		
	Bond Funds	12,700,000	
b.	NTSC Transmitters		
	Bond Funds	2,800,000	
3.	Kentucky Center for the Arts		
a.	Maintenance Pool		
	Investment Income	150,000	150,000
4.	Teachers' Retirement System		
a.	Imaging System		
	Reauthorization (\$700,000 - Restricted Funds)		
5.	School Facilities Construction Commission		
	Bond Funds	92,000,000	
	Reauthorization (\$17,000,000 - Bond Funds)		

Section 3. The provisions of Sections 1 and 2 of this Act shall supersede and prevail over any conflicting provisions of the 2000 Kentucky Acts Chapter 525 (House Joint Resolution 83), the 2000-2002 State/Executive Budget Memorandum.

Approved March 15, 2001

CHAPTER 50

(HB 55)

AN ACT relating to the training of planning personnel.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

- (1) (a) *Each planning commissioner and board of adjustment member of a planning unit shall, within one (1) year prior to appointment, or within one hundred twenty (120) days of appointment, attend a minimum of four (4) hours of orientation training in one (1) or more of the subjects listed in subsection (4) of this section.*
- (b) *Each planning professional, zoning administrator, and administrative official, and each planning professional's deputies and assistants, shall, within one (1) year prior to being employed, or within one hundred twenty (120) days of employment, attend a minimum of eight (8) hours of orientation training in one (1) or more of the subjects listed in subsection (4) of this section.*
- (c) *Each of the individuals listed in paragraphs (a) and (b) of this subsection shall certify his or her attendance by a written statement filed with the secretary of his or her respective planning commission within one hundred forty (140) days of appointment or employment. Each statement shall identify the date of each program attended, its subject matter, location, sponsors, and the time spent in each program.*
- (2) (a) *Each planning commissioner and board of adjustment member of a planning unit shall, within each period of two (2) consecutive calendar years, starting at the date of the individual's appointment, attend no less than eight (8) hours of continuing education in any of the subjects listed in subsection (4) of this section.*

- (b) *Each planning professional, zoning administrator, and administrative official, and each planning professional's deputies and assistants, shall, within each period of two (2) consecutive calendar years, starting at the date of the individual's appointment, attend no less than sixteen (16) hours, of continuing education in any of the subjects listed in subsection (4) of this section.*
- (c) *Each of the individuals listed in paragraphs (a) and (b) of this subsection shall certify his or her attendance by a written statement filed with the secretary of his or her respective planning commission by December 31 of each calendar year. Each statement shall identify the date of each program attended, its subject matter, location, sponsors, and the time spent in each program.*
- (3) *The planning commission or the legislative body of the city, county, urban-county, charter county government, or consolidated local government in which the planning commission has jurisdiction or, in the case of a joint planning unit, has representation in, shall be responsible for providing training as required by subsections (1) and (2) of this section or for providing funding to each planning commissioner, board of adjustment member, full time planning professional, zoning administrator, administrative official, and planning professional's deputies or assistants so that each individual may obtain training as required by subsections (1) and (2) of this section from other sources.*
- (4) *The subjects for the education required by subsections (1) and (2) of this section shall include, but not be limited to, the following: land use planning; zoning; floodplains; transportation; community facilities; ethics; public utilities; wireless telecommunications facilities; parliamentary procedure; public hearing procedure; administrative law; economic development; housing; public buildings; building construction; land subdivision; and powers and duties of the board of adjustment. Other topics reasonably related to the duties of planning officials or planning professionals may be approved by majority vote of the planning commission prior to December 31 of the year for which credit is sought.*
- (5) *Each local planning commission shall keep in its official public records originals of all statements and the written documentation of attendance required in subsection (6) of this section filed with the secretary of the planning commission pursuant to paragraph (c) of subsection (1) and paragraph (c) of subsection (2) of this section for three (3) years after the calendar year in which each statement and appurtenant written documentation is filed.*
- (6) *Each planning commissioner, board of adjustment member, full time planning professional, zoning administrator, administrative official, and planning professional's deputies or assistants shall be responsible for obtaining written documentation signed by a representative of the sponsor of any continuing education course for which credit is claimed, acknowledging the fact that the individual attended the program for which credit is claimed. That documentation shall be filed with the secretary of the planning commission as attachments to the statements required by paragraph (c) of subsection (1) and paragraph (c) of subsection (2) of this section.*
- (7) *If a planning commissioner or board of adjustment member fails to:*
 - (a) *Complete the requisite number of hours of orientation training and continuing education within the time allotted under subsections (1) and (2) of this section;*
 - (b) *File the statement required by paragraph (c) of subsection (1) and paragraph (c) of subsection (2) of this section; or*
 - (c) *File the documentation required by subsection (6) of this section;**the planning commissioner shall be subject to removal from office according to the provisions of KRS 100.157, and the board of adjustment member shall be subject to removal according to the provisions of KRS 100.217.*
- (8) *No city, county, urban-county, charter county, consolidated local government, planning commission, board of adjustment, or any entity performing local planning under KRS Chapter 100, shall employ a planning professional, zoning administrator, administrative official, or a planning professional's deputy or assistant, who fails to complete the requisite number of hours of orientation and continuing education required by subsections (1) and (2) of this section in the capacity of a planning professional, zoning administrator, administrative official, or planning professional's deputy or assistant.*

Approved March 15, 2001

CHAPTER 51**(HB 88)**

AN ACT relating to reorganization.

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

Section 1. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 to 161.716 and KRS 161.990:

- (1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;
- (2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;
- (3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;
- (4) "Member" means the chief state school officer, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any regular or special teacher, or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:
 - (a) Local boards of education;
 - (b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;
 - (c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;
 - (d) The State Department of Education, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;
 - (e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;
 - (f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;
 - (g) The Department for Adult Education and Literacy, *except that the commissioner shall not be a member*;
 - (h) The Department for Technical Education, *except that the commissioner shall not be a member*;
 - (i) ~~The Office of General Counsel within the Office of the Secretary of the Cabinet for Workforce Development;~~
 - (j) ~~The Office for Policy and Budget within the Office of the Secretary of the Cabinet for Workforce Development;~~

- ~~(k) The Office of Personnel Services within the Office of the Secretary of the Cabinet for Workforce Development;~~
 - ~~(l) The Office for Administrative Services within the Office of the Secretary of the Cabinet for Workforce Development;~~
 - ~~(m)~~ The Department of Vocational Rehabilitation;
 - ~~(j)(n)~~ The Kentucky Educational Collaborative for State Agency Children;
 - ~~(k)(o)~~ The Governor's Scholars Program;
 - ~~(l)(p)~~ Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;
 - ~~(m)(q)~~ Employees of the Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the Cabinet for Workforce Development, shall be members of the Teachers' Retirement System;~~and~~
 - ~~(n)(r)~~ Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620; *and*
 - (o) *Employees of the Office of General Counsel, the Office for Policy and Budget, the Office of Personnel Services, and the Office for Administrative Services within the Office of the Secretary of the Cabinet for Workforce Development and the commissioners of the Department for Adult Education and Literacy and the Department for Technical Education who were contributing to the Kentucky Teachers' Retirement System as of July 15, 2000;***~~and~~
- (5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);
 - (6) "New teacher" means any member not a present teacher;
 - (7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;
 - (8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;
 - (9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up employee contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

- (a) The member's actual salary; or
- (b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for employees of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

- (10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 158.782 on or after July 1, 1996. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;
- (11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;
- (12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;
- (13) "Regular interest" means interest at three percent (3%) per annum;
- (14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up employee contributions as described in KRS 161.540(2), plus accrued regular interest;
- (15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;
- (16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;
- (17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;
- (18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;
- (19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;
- (20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up employee contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;
- (21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis; and
- (22) "Full actuarial cost," when used to determine the payment that a member must pay for service credit means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in KRS 161.400.

Section 2. The General Assembly confirms Executive Order 2000-1317, dated October 4, 2000, to the extent it is not otherwise confirmed by this Act, except that Section II of Executive Order 2000-1317 shall be confirmed as

Legislative Research Commission PDF Version

amended by this Act to apply only to the employees of the Office of General Counsel, the Office for Policy and Budget, the Office of Personnel Services, and the Office for Administrative Services within the Office of the Secretary of the Cabinet for Workforce Development.

Approved March 15, 2001

CHAPTER 52

(HB 85)

AN ACT relating to actions to challenge the qualifications of candidates for office.

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

Section 1. KRS 118.176 is amended to read as follows:

- (1) A "bona fide" candidate means one who is seeking nomination in a primary or election in a general election according to law.
- (2) The bona fides of any candidate seeking nomination or election in a primary or general election may be questioned by any qualified voter entitled to vote for such candidate or by an opposing candidate by summary proceedings consisting of a motion before the Circuit Court of the judicial circuit in which the candidate whose bona fides is questioned resides. ***An action regarding the bona fides of any candidate seeking nomination or election in a primary or general election may be commenced at any time prior to the general election.*** The motion shall be tried summarily and without delay. Proof may be heard orally, and upon motion of either party shall be officially reported. If the Circuit Judge of the circuit in which the proceeding is filed is disqualified or absent from the county or is himself a candidate, the proceeding may be presented to, heard and determined by the Circuit Judge of any adjoining judicial circuit.
- (3) In any action or proceeding under this section the burden of proof as to the bona fides of a candidate shall be on the person challenging the bona fides of a candidate.
- (4) If the court finds the candidate is not a bona fide candidate it must so order, and certify the fact to the board of elections, and the candidate's name shall be stricken from the written designation of election officers filed with the board of elections or the court may refuse recognition or relief in a mandatory or injunctive way. The order of the Circuit Court shall be entered on the order book of the court and shall be subject to a motion to set aside in the Court of Appeals. The motion shall be heard by the Court of Appeals or a judge thereof in the manner provided for dissolving or granting injunctions, except that the motion must be made before the court or judge within five (5) days after the entry of the order in the Circuit Court, and may be heard and tried upon the original papers, and the order of the Court of Appeals or judge thereof shall be final.
- (5) No person shall approach the Circuit Judge for the purpose or view of influencing his decision on the motion pending before him or to be tried by him.

Approved March 15, 2001

CHAPTER 53

(HB 76)

AN ACT relating to the Motorcycle Safety Education Advisory Commission.

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

SECTION 1. A NEW SECTION OF KRS 186.870 TO 186.895 IS CREATED TO READ AS FOLLOWS:

The Motorcycle Safety Education Advisory Commission is established as an advisory body to help foster the growth and development of the motorcycle safety education program established under KRS 186.870.

SECTION 2. A NEW SECTION OF KRS 186.870 TO 186.895 IS CREATED TO READ AS FOLLOWS:

- (1) ***The Motorcycle Safety Education Advisory Commission shall be comprised of seven (7) members, appointed as follows:***
 - (a) ***One (1) representative of the Kentucky State Police, appointed by the Governor;***

- (b) *One (1) representative of the Transportation Cabinet's Division of Driver Licensing, appointed by the Governor;*
 - (c) *One (1) instructor in the motorcycle safety education program, appointed by the Governor;*
 - (d) *Two (2) members of the Kentucky Motorcycle Association, to be appointed by the Governor from a list of five (5) nominees selected by the association;*
 - (e) *One (1) member appointed by the Governor from a list of three (3) nominees selected by the President of the Senate; and*
 - (f) *One (1) member appointed by the Governor from a list of three (3) nominees selected by the Speaker of the House.*
- (2) *Except for initial appointments as provided for in Section 4 of this Act, members of the Motorcycle Safety Education Advisory Commission shall serve a term of four (4) years. Sitting members shall be eligible to succeed themselves.*
 - (3) *Commission members shall receive no compensation for their services, and shall not be compensated for expenses incurred from travel or in connection with the performance of their duties as commission members.*
 - (4) *The commission shall elect its chair and vice chair from its membership.*
 - (5) *The commission shall meet quarterly or upon the call of the chair or the request of the secretary of the Transportation Cabinet.*
 - (6) *The commission may make recommendations only at meetings where a quorum is present.*
 - (7) *The commission shall keep a record of its meetings and recommendations.*

SECTION 3. A NEW SECTION OF KRS 186.870 TO 186.895 IS CREATED TO READ AS FOLLOWS:

The Motorcycle Safety Education Advisory Commission shall be an advisory body only, and shall have the following responsibilities:

- (1) *Advise the Transportation Cabinet on short-range and long-range goals to promote the continued growth and expansion of the motorcycle safety education program;*
- (2) *Make recommendations regarding the administration of the motorcycle safety education program;*
- (3) *Ensure that the Transportation Cabinet and the motorcycle safety education program is informed on the views and philosophies of interested parties; and*
- (4) *Act as a communication channel between the relevant state agencies and motorcyclists and the general public.*

Section 4. The initial terms of members of the Motorcycle Safety Education Advisory Commission shall be as follows:

- (1) The representative of the Kentucky State Police shall serve a term which expires June 30, 2002;
- (2) The representative of the Transportation Cabinet's Division of Driver Licensing and one (1) representative of the Kentucky Motorcycle Association shall serve terms which expire June 30, 2003;
- (3) The representative of the motorcycle safety education program and one (1) representative of the Kentucky Motorcycle Association shall serve terms which expire June 30, 2004; and
- (4) The members appointed by the Governor from nominations by the President of the Senate and the Speaker of the House shall serve terms which expire June 30, 2004.

Approved March 15, 2001

CHAPTER 54**(HB 203)**

AN ACT relating to the Judicial Branch Budget and declaring an emergency.

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

Section 1. 2000 Kentucky Acts Chapter 545, PART III, GENERAL PROVISIONS, at pages 3270 to 3273, is amended to read as follows:

PART III**GENERAL PROVISIONS**

1. The Director of the Administrative Office of the Courts with the approval of the Chief Justice may expend any of the funds appropriated for the court operation and administration in any lawful manner and for any legal purpose that the Chief Justice shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the judicial branch of government.

2. The Court of Justice shall not incur any obligation for any program against the General Fund appropriations contained in this Act unless that program may be reasonably determined to have been contemplated by the proposed judicial budget, as modified and enacted, and supported by the statutory budget memorandum and other pertinent records.

3. Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

4. Any appropriation item and sum in this Act and in an appropriation provision in another act of the 2000 General Assembly which constitutes a duplicate appropriation shall be governed by KRS 48.312.

5. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

6. Notwithstanding KRS 45.229, any unexpended balance remaining in the Court's restricted funds accounts or federal funds accounts at the close of the fiscal years ending June 30, 2000, and June 30, 2001, shall not lapse and shall continue into the next fiscal year.

7. Proposed revisions to restricted funds and federal funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The Director of the Administrative Office of the Courts shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

8. The Chief Justice shall cause the Director of the Administrative Office of the Courts to prepare a final budget document reflecting the 2000-2002 biennial budget of the Court of Justice. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within sixty (60) days of the adjournment of the 2000 Regular Session of the General Assembly.

9. The Chief Justice shall establish rules of procedure on matters relating to the design, financing, and construction of court facilities. The Administrative Office of the Courts shall oversee the design, financing, and construction of court facilities. Capital costs, for the purpose of computing the maximum annual use allowance, shall not exceed the project scope as authorized by the General Assembly in this judicial branch budget unless increased and approved through the procedures outlined below.

The Administrative Office of the Courts shall assess the need for construction or renovation of court facilities throughout the Commonwealth and develop a project program for the construction or renovation of those court facilities that the Administrative Office of the Courts determines to be most in need of construction or renovation. Based on a needs assessment, the Administrative Office of the Courts shall develop a prioritized list of proposed court facilities projects and submit the list to the Chief Justice for approval and to the Court Facilities Standards Committee for informational purposes only. Upon approval by the Chief Justice, the Administrative Office of the Courts shall submit the prioritized list to the Capital Planning Advisory Board, by April 15 of 2001, in accordance with KRS 7A.120.

The Administrative Office of the Courts shall develop and maintain uniform contracts to be used by local units of government when procuring architectural, construction, financial, or other services relating to court facilities projects authorized by the General Assembly. Each county with a court project authorized by the 2000 General Assembly shall enter into a written memorandum of agreement with the Administrative Office of the Courts. Before the Administrative Office of the Courts submits its next budget request for court projects under KRS 48.050, each local unit of government that is expected to participate in financing a requested court project shall enter into a written memorandum of agreement with the Administrative Office of the Courts. The agreements shall be developed by the Administrative Office of the Courts, and shall specify the rights, duties, and obligations of the local unit of government and the Administrative Office of the Courts relating to the project, and shall be contingent upon the project's authorization by the General Assembly.

No contract, and no modification to any contract, relating to the design, financing, or construction of court facilities projects authorized by the General Assembly shall be executed unless first reviewed and approved by the Administrative Office of the Courts. All court facilities projects, beginning with those authorized by the 2000 General Assembly, shall comply with the Kentucky standards for court facilities to be established by the Chief Justice and the Administrative Office of the Courts.

The use allowance in the judicial branch budget recommendation submitted under KRS 48.100 shall be determined as if bonds will be issued for a term of twenty (20) years at the prevailing market rate, computed from the estimated date that the Court of Justice will occupy the facility. If the market rate for the bonds assumed in the budget recommendation, including that in the recommendation for FY 2001-2002, has increased when the bonds are to be sold, the director of the Administrative Office of the Courts may approve an extension in the bond term, up to a total of twenty-five (25) years, but only as necessary to keep the annual use allowance within the budgeted amount. All bonds issued by any local unit of government for court facilities projects shall be limited to the term approved by the Administrative Office of the Courts.

Before approving any bond issue for a term exceeding twenty-five (25) years, the director of the Administrative Office of the Courts shall submit a proposal for the extended term to the Interim Joint Committee on Appropriations and Revenue and the Capital Projects and Bond Oversight Committee. The proposal shall include a statement of the necessity for the extended bond term and the impact of the extended term on the project's budgeted scope and authorized annual use allowance. Within thirty (30) days after receiving a proposal to extend a bond term beyond twenty-five (25) years, the Interim Joint Committee on Appropriations and Revenue and the Capital Projects and Bond Oversight Committee shall either approve or disapprove the proposal and shall then promptly notify the director of the Administrative Office of the Courts. If either committee disapproves the proposal, the director of the Administrative Office of the Courts shall take one (1) of the following actions and shall notify the committee of its decision in writing within thirty (30) days:

- (a) Disapprove and take no further action on the proposal;
- (b) Revise the proposal to comply with the committee's objections; or
- (c) Determine to approve and proceed with the proposal over the committee's objection.

The Court of Justice may agree to increase the budgeted scope of a court project or project pool authorized by the General Assembly, and may draw from the local facilities use allowance contingency fund to cover any resulting increase in the budgeted annual use allowance, if and only if:

- (a) The appropriate unit of government first submits a proposal for the increase to the Court Facilities Standards Committee, and the Court Facilities Standards Committee approves the increase; and
- (b) The annual use allowance for the project or project pool, adjusted for the proposed increase in scope, would not exceed the annual use allowance specified for that project or project pool in the multiyear use allowance schedule set out in the judicial branch budget bill or memorandum by more than fifteen percent (15%).

Before the Court of Justice gives final approval to an increase in the budgeted scope of an authorized project or project pool listed in a judicial branch budget bill which would result in an increased use allowance, the director of the Administrative Office of the Courts shall submit a proposal for the increase to the Capital Projects and Bond Oversight Committee at least fourteen (14) days prior to the committee meeting. Within thirty (30) days after receiving a proposal to increase the use allowance, the Capital Projects and Bond Oversight Committee shall either approve or disapprove the proposal and shall then promptly notify the director of the Administrative Office of the Courts of its decision. If the Capital Projects and Bond Oversight Committee disapproves the proposal, the director of

the Administrative Office of the Courts shall take one (1) of the following actions and shall notify the committee of its decision in writing within thirty (30) days of receiving the committee's notice of disapproval:

- (a) Revise the proposal to comply with the committee's objections;
- (b) Cancel and take no further action on the proposal; or
- (c) Determine to implement the proposal over the committee's objection.

The Administrative Office of the Courts shall report to the Capital Projects and Bond Oversight Committee within thirty (30) days any action taken by the Court of Justice to approve a scope increase of a project within a pool which would increase the use allowance for that project. The Capital Projects and Bond Oversight Committee shall maintain records of proposals, findings, decisions, and actions taken under this section. When appropriate, the committee shall provide this information to other legislative committees or to the General Assembly. The Administrative Office of the Courts shall provide to the Capital Projects and Bond Oversight Committee, at the committee's January, April, July, and October regular meetings, a status report on the progress of all incomplete court facilities projects.

On August 1 of each year, the Administrative Office of the Courts shall prepare a financial report on the court facility use allowance contingency fund for the fiscal year ending on June 30 of that year. The report shall include explanations, allotments, expenditures, encumbrances, and the available balance.

Upon request of the Administrative Office of the Courts, the Department for Local Government shall evaluate the financial condition of any local unit of government selected to participate in a court facilities construction or renovation project, and shall certify to the Administrative Office of the Courts the local unit of government's ability to participate in the project.

~~10. a. A fiscal court, by ordinance, may assess additional fees and costs, for the purpose of paying expenses for courthouses, bonds related to them, and administration thereof in Circuit Court and District Court:~~

- ~~—— (1) In civil cases, a fee of up to twenty five dollars (\$25) may be added to filing fees.~~
- ~~—— (2) In criminal cases, a cost of up to twenty five dollars (\$25) may be added to the court costs that the defendant is required to pay.~~
- ~~—— (3) In civil cases that are appealed from Circuit Court to the Court of Appeals, a fee of up to twenty five dollars (\$25) may be added to the filing fees.~~
- ~~—— (4) In all traffic offenses, a fee of up to ten dollars (\$10) may be added to the court costs for each traffic offense.~~
- ~~—— (5) In probate cases, a filing fee of up to ten dollars (\$10) may be added to each filing fee.~~
- ~~—— (6) In misdemeanor cases, a cost of up to twenty dollars (\$20) may be added to the court costs.~~
- ~~—— (7) In small claims, a fee of up to ten dollars (\$10) may be added to all filing fees.~~
- ~~—— (8) In civil cases, a fee of up to ten dollars (\$10) may be added to all filing fees.~~

~~b. A fiscal court, by ordinance, may assess additional fees on subpoena and civil summons service by the local sheriff, for the purpose of paying expenses for courthouses, bonds related to them, and administration thereof. The fees may be added as follows:~~

- ~~—— (1) In addition to the fees normally charged for the service of a subpoena, the person requesting service may be charged a fee of up to ten dollars (\$10).~~
- ~~—— (2) In addition to the fees normally charged for the service of a civil summons, the person requesting service may be charged a fee of up to ten dollars (\$10).~~

~~11.]~~ Funding for the Commonwealth's ten family courts has been granted with the intention that the Family Court Pilot Project be continued during fiscal year 2000-2001 and fiscal year 2001-2002. Continuation of the Family Court Pilot Project is in recognition that nine such family courts, located in geographically diverse locations across Kentucky, have been in operation for less than two years and additional time and experience are required to properly assess the success of the Family Court Project.

SECTION 2. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:

A fiscal court, by ordinance, may assess additional fees and costs for the purpose of paying expenses for courthouses, bonds related to them, and administration expenses of the Circuit Court as follows:

- (1) *In civil cases; a fee of twenty-five dollars (\$25) may be added to filing fees;*
- (2) *In criminal cases, a cost of twenty-five dollars (\$25) may be added to the court costs that the defendant is required to pay; and*
- (3) *In civil cases that are appealed from the Circuit Court to the Court of Appeals, a fee of twenty-five dollars (\$25) may be added to the filing fees.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

A fiscal court, by ordinance, may assess additional fees and costs for the purpose of paying expenses for courthouses, bonds related to them, and administration expenses of the District Court as follows:

- (1) *In all traffic offense cases, a fee of ten dollars (\$10) may be added to the court costs;*
- (2) *In probate cases, a filing fee of ten dollars (\$10) may be added to each filing fee;*
- (3) *In misdemeanor cases, a cost of twenty dollars (\$20) may be added to the court costs;*
- (4) *In small claim cases, a fee of ten dollars (\$10) may be added to all filing fees; and*
- (5) *In civil cases, a fee of ten dollars (\$10) may be added to all filing fees.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

- (1) *A fiscal court, by ordinance, may assess additional fees on subpoena and civil summons service by the local sheriff for the purpose of paying expenses for courthouses, bonds related to them, and administration expenses of courthouses. The fees may be added as follows:*
 - (a) *In addition to the fees normally charged for the service of a subpoena, the person requesting service may be charged a fee of ten dollars (\$10); and*
 - (b) *In addition to the fees normally charged for the service of a civil summons, the person requesting service may be charged a fee of ten dollars (\$10).*
- (2) *Nothing in this section shall change any other fee allocation allowed by statute.*

Section 5. The provisions of Section 1 to 4 of this Act shall supersede and prevail over any conflicting provisions of the 2000 Kentucky Acts Chapter 524 (House Joint Resolution 84), the 2000-2002 Judicial Branch Budget Memorandum.

Section 6. Whereas some fiscal courts have already adopted these additional fees and costs in the amounts identified in this Act in accordance with the provisions of 2000 Kentucky Acts Chapter 545, (House Bill 577), the 2000-2002 Judicial Branch Budget Act, and there exists the need to provide continuing statutory authority for the levy of these additional fees and costs, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved March 15, 2001

CHAPTER 55

(HB 284)

AN ACT relating to property taxes.

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

Section 1. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the classes of property described in KRS 132.030 and 132.050, and the following classes of property, which shall be subject to taxation for state purposes only:

- (1) Farm implements and farm machinery owned by a person actually engaged in farming and used in his farm operation;

- (2) Livestock, ratite birds, and domestic fowl;
- (3) Capital stock of savings and loan associations;
- (4) Machinery actually engaged in manufacturing, products in the course of manufacture, and raw material actually on hand at the plant for the purpose of manufacture. The printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be manufacturing;
- (5) Commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;
- (6) Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents (\$0.015) on each one hundred dollars (\$100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents (\$0.045) on each one hundred dollars (\$100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;
- (7) Money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured. Nothing in this section shall forbid local taxation of franchises of corporations or of financial institutions, as provided for in KRS 136.575, or domestic life insurance companies;
- (8) All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;
- (9) Property which has been certified as a pollution control facility as defined in KRS 224.01-300;
- (10) Property which has been certified as an alcohol production facility as defined in KRS 247.910;
- (11) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;
- (12) Tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81;
- (13) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460;
- (14) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
- (15) All motor vehicles held for sale in the inventory of a licensed motor vehicle dealer, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230, and all motor vehicles with a salvage title held by an insurance company;
- (16) Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in KRS 139.095;
- (17) New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800;
- (18) New boats and new marine equipment held for retail sale under a floor plan financing arrangement by a dealer registered under KRS 235.220;
- (19) Aircraft not used in the business of transporting persons or property for compensation or hire if an exemption is approved by the county, city, school, or other taxing district in which the aircraft has its taxable situs;~~[-and]~~
- (20) Federally documented vessels not used in the business of transporting persons or property for compensation or hire or for other commercial purposes, if an exemption is approved by the county, city, school, or other taxing district in which the federally documented vessel has its taxable situs; **and**

(21) *Any nonferrous metal that conforms to the quality, shape, and weight specifications set by the New York Mercantile Exchange's special contract rules for metals, and which is located or stored in a commodity warehouse and held on warrant, or for which a written request has been made to a commodity warehouse to place it on warrant, according to the rules and regulations of a trading facility. In this subsection:*

- (a) *"Commodity warehouse" means a warehouse, shipping plant, depository, or other facility that has been designated or approved by a trading facility as a regular delivery point for a commodity on contracts of sale for future delivery; and*
- (b) *"Trading facility" means a facility that is designated by or registered with the federal Commodity Futures Trading Commission under 7 U.S.C. secs. 1 et seq. "Trading facility" includes the Board of Trade of the City of Chicago, the Chicago Mercantile Exchange, and the New York Mercantile Exchange.*

Section 2. This Act shall apply for property assessed on or after January 1, 2001.

Approved March 15, 2001

CHAPTER 56

(HB 169)

AN ACT relating to reorganization.

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

Section 1. The General Assembly hereby confirms Executive Order 2000-1622, dated December 29, 2000, which establishes the positions of a Deputy Commissioner for Operations and a Deputy Commissioner for Policy within the Office of the Commissioner of the Department for Medicaid Services; establishes the Division of KenPAC Services within the Department for Medicaid Services and mandates that the responsibility for the department is to administer the expanded KenPAC program and to develop the primary care case management (PCCM) program within the department; and abolishes the Division of Behavioral Health within the Department for Medicaid Services and transfers all records, equipment, and personnel from that division to the Division of Physical Health.

Approved March 15, 2001

CHAPTER 57

(HB 112)

AN ACT relating to the Telehealth Board.

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

Section 1. KRS 11.550 is amended to read as follows:

- (1) The Telehealth Board is created and placed for administrative purposes under the Governor's Office for Technology. This seven (7) member board shall consist of the:
 - (a) Chancellor, or a designee, of the medical school at the University of Kentucky;
 - (b) Chancellor, or a designee, of the medical school at the University of Louisville;
 - (c) Commissioner, or a designee, of the Department for Public Health;
 - (d) Chief information officer, or a designee, of the Governor's Office for Technology; and
 - (e) Three (3) members at large, appointed by the Governor, who are health professionals or third parties as those terms are defined in KRS 205.510. To ensure representation of both groups, no more than two (2) health professionals or two (2) third parties shall be members of the board at the same time. These members shall serve a term of four (4) years, may serve no more than two (2) consecutive terms, and shall be reimbursed for their costs associated with attending board meetings.
- (2) The members shall elect a chair and hold bimonthly meetings or as often as necessary for the conduct of the board's business.

- (3) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to:
- (a) Establish telehealth training centers at the University of Kentucky, University of Louisville, the pediatric-affiliated hospitals at the University of Kentucky and the University of Louisville, and one (1) each in western Kentucky and eastern Kentucky, with the sites to be determined by the board;
 - (b) Develop a telehealth network, to coordinate with the training centers, of no more than twenty-five (25) rural sites, to be established based on the availability of funding and in accordance with criteria set by the board. In addition to these rural sites, the board may identify, for participation in the telehealth network, ten (10) local health departments, five (5) of which shall be administered by the University of Kentucky and five (5) of which shall be administered by the University of Louisville, ***and any other site that is operating as a telemedicine or telehealth site and that demonstrates its capability to follow the board's protocols and standards;***
 - (c) Establish protocols and standards to be followed by the training centers and rural sites; and
 - (d) Maintain the central link for the network with the Kentucky information highway.
- (4) The board shall, following consultation with the Governor's Office for Technology, recommend the processes and procedures for the switching and running of the telehealth network.
- (5) The University of Kentucky and the University of Louisville shall report semiannually to the Interim Joint Committee on Health and Welfare on the following areas as specified by the board through an administrative regulation promulgated in accordance with KRS Chapter 13A.
- (a) Data on utilization, performance, and quality of care;
 - (b) Quality assurance measures, including monitoring systems;
 - (c) The economic impact on and benefits to participating local communities; and
 - (d) Other matters related to telehealth at the discretion of the board.
- (6) The board shall receive and dispense funds appropriated for its use by the General Assembly or obtained through any other gift or grant.

Section 2. KRS 342.315 is amended to read as follows:

- (1) The commissioner shall contract with the University of Kentucky and the University of Louisville medical schools to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for evaluation may be made to one (1) of the medical schools whenever a medical question is at issue.
- (2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the commissioner. The clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.
- (3) The commissioner or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the commissioner, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the commissioner within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the commissioner for those services.
- (4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.
- (5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.

- (6) Not less often than annually the designee of the secretary of the Cabinet for Health Services shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically recognized techniques, whether impairment ratings are in conformity with standards prescribed by the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter.
- (7) *The General Assembly finds that good public policy mandates the realization of the potential advantages, both economic and effectual, of the use of telemedicine and telehealth. The commissioner may, to the extent that he finds it feasible and appropriate, require the use of telemedicine and telehealth practices, as authorized under Section 1 of this Act, in the independent medical evaluation process required by this chapter.*

Approved March 15, 2001

CHAPTER 58

(HB 69)

AN ACT relating to sessions.

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

Section 1. KRS 48.100 is amended to read as follows:

- (1) A branch budget recommendation shall be submitted to the General Assembly by the Governor for the executive branch, the Chief Justice for the judicial branch, and the Legislative Research Commission for the legislative branch. The budget recommendations shall be submitted to the General Assembly on or before the tenth legislative day of each *even-numbered-year* regular session, except in the year following the election of the Governor when the budget recommendations shall be submitted not later than the fifteenth legislative day of *an even-numbered-year*~~[a]~~ regular session.
- (2) Budget recommendations shall be submitted on the first day of any extraordinary session called for the purpose of amending a branch budget bill.

Section 2. KRS 48.111 is amended to read as follows:

- (1) The Governor shall include in the executive branch budget recommendation and in the draft branch budget bill for the executive branch submitted to each *even-numbered-year* regular session of the General Assembly pursuant to KRS 48.110, for the biennium period beginning July 1, 1992, and for each biennium thereafter, a recommended program for rental of any space for which the annual rental cost will exceed two hundred thousand dollars (\$200,000).
- (2) The recommended program for leased space shall include:
 - (a) A summary description of each specific two hundred thousand dollar (\$200,000) lease project recommended for funding during the biennium; and
 - (b) For each project:
 - 1. The name of the agency for which space will be leased;
 - 2. The purpose and justification for the lease;
 - 3. Whether the lease contains a purchase option which will be exercised during the biennium pursuant to KRS 56.806(4) and the estimated purchase price;
 - 4. a. Whether the lease contains a lease-purchase which will be completed during the biennium pursuant to KRS 56.806(5) prior to the total amortization, through lease payments, of the fair market value of the leased property as of the time the lessor and the Commonwealth entered into the lease; and
 - b. The estimated sum of money that will have to be paid in addition to rent paid to complete the purchase;

5. The estimated cost of the lease; and
 6. The recommended sources of funds.
- (3) All information required by subsection (2) of this section shall be included in the executive branch budget recommendation. The branch budget bill for the executive branch shall contain only the information specified in subparagraphs 1. and 2. of subsection (2)(b) of this section.
- (4) Except as provided in subsection (5) of this section, no lease with an annual rental cost which will exceed two hundred thousand dollars (\$200,000) shall be executed unless the lease has been identified and included in the branch budget bill. The branch budget bill for the executive branch shall authorize the expenditure by the budget unit that will occupy the premises.
- (5) A lease with an annual rental cost exceeding two hundred thousand dollars (\$200,000) may be authorized even though it is not specifically listed in the biennial budget report and branch budget bill, subject to the following conditions and procedures:
- (a) A lease is awarded as the result of the consolidation of leases in which case, in addition to subsection (6) of this section, the provisions of KRS 56.803 and 56.823(2) or of KRS 56.805(2) and 56.823(3) shall apply, as appropriate; or
 - (b) A lease is awarded as the result of an agency occupying substantially less space than it should, under the standards for space set by the Department for Facilities Management, in which case, in addition to subsection (6) of this section, the provisions of KRS 56.803 and 56.823(2) or of KRS 56.805(2) and 56.823(3) shall apply, as appropriate. The space allocated under the new lease shall not exceed the space which should be allocated pursuant to the standards for space; or
 - (c) A lease with an annual rental cost of less than two hundred thousand dollars (\$200,000) is renewed or replaced for an annual rental cost that exceeds two hundred thousand dollars (\$200,000), but only if that request and subsequent renewal or replacement lease is:
 1. From the same state agency lessee whose initial lease was under two hundred thousand dollars (\$200,000);
 2. For the same or substantially the same square footage as the initial lease that was under two hundred thousand dollars (\$200,000);
 3. The result of the competitive leasing process authorized by KRS 56.803;
 4. For an annual lease payment of less than two hundred and fifty thousand dollars (\$250,000); and
 5. Effective only until June 30 of the next even-numbered year unless authorized in the biennial budget report and branch budget bill; or
 - (d) A lease is awarded as the result of an emergency in which case the provisions of KRS 56.805(3) and (4) and KRS 56.823(5) shall apply; or
 - (e)
 1. Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds; and
 2. Money specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallocated for expenditure on the lease. Money utilized shall not jeopardize any existing program and shall not require the use of current general funds specifically dedicated to existing programs; and
 3. The Finance and Administration Cabinet shall comply with the requirements of subsection (6) of this section.
- (6) (a) No later than five (5) business days after an advertisement for lease proposals pursuant to paragraph (a) or (b) of subsection (5) of this section, the cabinet shall provide the Capital Projects and Bond Oversight Committee with a copy of the advertisement and shall state in writing to the committee that the copy is being provided in compliance with this paragraph.
- (b) Prior to final authorization of a lease pursuant to paragraph (e) of subsection (5) of this section, the cabinet shall report to the Capital Projects and Bond Oversight Committee:
1. The name of the agency for which space will be leased;
 2. The purpose and justification for the lease;

3. The estimated cost of the lease;
 4. The source of funds; and
 5. Whether the requirements of paragraph (e) of subsection (5) of this section have been met.
- (c) Within thirty (30) days after the report required in paragraph (b) of this subsection has been submitted to the committee, the committee shall conduct its review and decide whether to approve or disapprove the proposed lease authorization. The Legislative Research Commission shall promptly transmit the committee's findings and determinations to the Finance and Administration Cabinet.
 - (d) If the committee disapproves a proposed lease authorization, the secretary of the Finance and Administration Cabinet shall:
 1. Revise the proposed lease authorization to comply with the objection of the committee; or
 2. Cancel the proposed lease authorization; or
 3. Determine to proceed with the proposed lease authorization disapproved by the committee.
 - (e) The decision made by the secretary of the Finance and Administration Cabinet under paragraph (d) of this subsection shall be communicated to the committee in writing within thirty (30) days of the committee's disapproval.
 - (f) The Legislative Research Commission shall maintain records of the committee's disapproval of a proposed lease authorization and the cabinet's report of its actions on a disapproved proposed lease authorization. If the committee disapproves a proposed lease authorization, the Legislative Research Commission shall transmit the committee's disapproval and the cabinet's action on the disapproval to the appropriate interim joint committee of the Legislative Research Commission and to the General Assembly when next convened *in an even-numbered-year regular session*.
 - (g) If after committee review a lease is authorized, the lease shall be awarded pursuant to the provisions of KRS 56.800 to 56.823 and this section, KRS 43.050, and KRS 48.190 and shall be subsequently reviewed pursuant to the appropriate subsection of KRS 56.823.

Section 3. KRS 48.112 is amended to read as follows:

- (1) The provisions of any other law notwithstanding, the Governor shall include in the budget recommendation for the executive branch and in the draft branch budget bill for the executive branch submitted to each *even-numbered-year* regular session of the General Assembly for the biennium period beginning July 1, 1998, and for each biennium thereafter, recommendations for appropriations as provided in KRS 342.122(1)(c) to be made by the General Assembly to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission established by KRS Chapter 342.
- (2) The amount to be recommended for appropriation to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission shall be nineteen million dollars (\$19,000,000) of the coal severance tax, levied under KRS 143.020, estimate for each fiscal year of the biennium.

Section 4. KRS 48.185 is amended to read as follows:

- (1) The provisions of any other law notwithstanding, the Governor shall include in the budget recommendation for the executive branch and in the draft branch budget bill for the executive branch submitted to each *even-numbered-year* regular session of the General Assembly for the biennium period beginning July 1, 1980, and for each biennium thereafter, recommendations for appropriations from the general fund to be made by the General Assembly to the area development fund established by KRS Chapter 42.
- (2) The amount to be recommended for the appropriation to the area development fund shall be four and four-tenths percent (4.4%) of the severance tax estimate for each fiscal year of the biennium.

Section 5. KRS 48.300 is amended to read as follows:

- (1) The financial plan for each fiscal year as presented in a branch budget recommendation shall be adopted, with such modifications as are made by the General Assembly, by the passage of a budget bill and such revenue and other acts as are necessary for the purpose.

- (2) Prior to the passage of a **branch** budget bill and any other acts necessary, the appropriations committees of the General Assembly shall prepare a budget memorandum. The budget memorandum shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and shall explain such changes in detail sufficient to convey the intent of the appropriations committees.
- (3) In administering the provisions of a branch budget bill, a branch head shall interpret provisions of the branch budget bill in conformity with the budget memorandum.

Section 6. KRS 48.310 is amended to read as follows:

- (1) No provision of a **branch** budget bill shall be effective beyond the second fiscal year from the date of its enactment. A budget bill enacted at a special session *or in an odd-numbered-year regular session* of the General Assembly shall not be effective past July 1~~st~~ of the year in which the next *even-numbered-year* regular session takes place.
- (2) A budget bill may contain language which exempts the budget bill or any appropriation or the use thereof from the operation of a statute for the effective period of the budget bill.

Section 7. KRS 176.419 is amended to read as follows:

As used in KRS 45.245, 45.246, 176.420, 176.430, and 176.440:

- (1) "Project" means the design, right-of-way, utility, or construction phase of a highway construction project; and
- (2) "Six (6) year road plan" means the short-term individual transportation projects that are scheduled to be constructed in each county and that are submitted each *even-numbered-year* regular session to the General Assembly by the Department of Highways, including any amendments the General Assembly makes to the projects prior to the plan being enacted. The six (6) year road plan projects with phases scheduled for funding during the ensuing biennium shall be enacted in the budget memorandum and the projects with phases in the last four (4) years of the plan shall be enacted in a joint resolution and shall include, but not be limited to:
 - (a) The county name;
 - (b) The Kentucky Transportation Cabinet project identification number;
 - (c) The route where the project is located;
 - (d) The length of the project;
 - (e) A description of the project and the scope of improvement;
 - (f) The type of local, state, or federal funds to be used on the project;
 - (g) The stage of development for the design, right-of-way, utility, and construction phase;
 - (h) The fiscal year in which each phase of the project should commence;
 - (i) The estimated cost for each phase of the project; and
 - (j) The estimated cost to complete the project.

Section 8. KRS 176.420 is amended to read as follows:

- (1) The Department of Highways shall undertake a continuing study of the needs of the highways under its jurisdiction for the purpose of bringing existing facilities to acceptable standards or for the replacement of existing facilities where required.
- (2) The Department of Highways shall submit the six (6) year road plan to the General Assembly within ten (10) working days of submission of the executive budget by the Governor to each *even-numbered-year* regular session of the General Assembly pursuant to KRS 48.100. The six (6) year road plan submitted shall be divided into six (6) sections as follows:
 - (a) The first section shall set forth the cabinet's revenue estimates and assumptions used in developing the six (6) year road plan.
 - (b) The second section shall list the projects identified in the six (6) year road plan as defined in KRS 176.419.
 - (c) The third section shall be the list of projects targeted for potential advancement, which is identified in KRS 176.430(1).

- (d) The fourth section shall specify statewide projects that are listed under "ZVARIOUS 99" category.
 - (e) The fifth section shall provide a comparison of the proposed six (6) year road plan to the six (6) year road plan enacted the previous biennium by the General Assembly. The comparison shall include a justification statement documenting the reason any project in the previously enacted six (6) year road plan was deleted from the proposed plan.
 - (f) The sixth section shall list by county all active road construction projects that are not included in the plan or are not shown in the plan submitted to the General Assembly because funding has been authorized for the project or work has been initiated on the project.
- (3) The department shall provide the General Assembly an electronic version of the six (6) year road plan as defined in KRS 176.419 at the same time the department submits the printed six (6) year road plan to the General Assembly under subsection (2) of this section. The information shall be in a form cooperatively developed by the Transportation Cabinet and the General Assembly and approved by the Legislative Research Commission.

Section 9. KRS 177.376 is amended to read as follows:

The Kentucky Transportation Center Board shall:

- (1) Recommend policies and procedures as necessary to carry out the provisions of KRS 177.375 to 177.380;
- (2) Review and recommend research, and technical assistance programs undertaken and financed under the provisions of KRS 177.375 to 177.380;
- (3) Review all progress on projects authorized under the provisions of KRS 177.375 to 177.380;
- (4) Provide the Governor, the General Assembly and the Legislative Research Commission with an annual report by January 15 of each year showing the status of funds appropriated under the provisions of KRS 177.375 to 177.380 for the operation and management of the Kentucky Transportation Center and the progress of the Kentucky Transportation Center's technical assistance and research programs;
- (5) Advise the General Assembly by January 30 during each *even-numbered-year* regular session of the need for continuation of the Kentucky Transportation Center;
- (6) Ensure that personnel and facilities of the regional universities and community colleges are utilized when appropriate for completion of work or service functions performed by the center; and
- (7) Ensure that all authorized projects are directed toward transportation improvement and more specifically toward strengthening the transportation system of Kentucky.

Section 10. KRS 6.229 is amended to read as follows:

Upon receipt and approval by the Legislative Research Commission of the comprehensive report on legislative compensation in December of the year preceding the *even-numbered-year* regular session of the General Assembly, the director of the Legislative Research Commission shall include in the budget for the commission the language and appropriations that will effectuate the approved recommendations of the commission.

Section 11. KRS 45A.270 is amended to read as follows:

- (1) Each agency which has had an award or judgment against it upon a claim filed pursuant to KRS 45A.240 to 45A.270 shall furnish a certified copy of the award of judgment to the Finance and Administration Cabinet. The first five hundred thousand dollars (\$500,000) of any award or judgment against the Department of Highways, Transportation Cabinet, shall be paid out of the state road fund, upon warrants drawn by the secretary of the Finance and Administration Cabinet upon the State Treasurer. The first five hundred thousand dollars (\$500,000) of any award or judgment against other departments or agencies of the state, which are not maintained by appropriations out of the general fund, shall be paid out of the funds created or collected for the maintenance and operation of such department or agency, upon warrants drawn by the secretary of the Finance and Administration Cabinet upon the State Treasurer. The first five hundred thousand dollars (\$500,000) of any award or judgment against all other departments and agencies of the state shall be paid out of the general fund, upon warrants drawn by the secretary of the Finance and Administration Cabinet upon the State Treasurer.

- (2) The Finance and Administration Cabinet shall request an appropriation from the next *even-numbered-year* regular session of the General Assembly for the purpose of satisfying all such awards and judgments granted during the preceding two (2) fiscal years which are not satisfied under subsection (1) of this section.

Section 12. KRS 56.806 is amended to read as follows:

- (1) Except when another lease term is approved by the secretary of the Finance and Administration Cabinet, the terms of all leases entered into pursuant to KRS 56.803 or 56.805 may provide for an initial lease term beginning on a date stated and ending on June 30 in each year in which the General Assembly has convened in *an even-numbered-year* regular session and appropriated funds for the operation of the state government during the next ensuing biennium. The leases may grant the state successive options for the automatic renewal of the lease upon the same terms and conditions for additional renewal periods of twenty-four (24) months each, not to exceed three (3) automatic renewal periods. Any lease containing provision for the automatic renewal of the lease after the expiration of the initial lease term shall also provide that the state may, upon written notice given to the lessor on or before April 15 of the year in which the initial or any automatic renewal term expires, elect not to exercise its option for the automatic renewal of the lease term. Subject to the agreement of the lessor, a lease in which the final automatic renewal period has expired, or will expire as of the end of the then current term, may be renewed upon the same terms and conditions, provisions of KRS 56.803 to the contrary notwithstanding.
- (2) The Department for Facilities Management shall comply with the provisions of this subsection when calculating rentable area for the purposes of a lease.
 - (a) If the Commonwealth is the only tenant on a single floor of a multistory building, the rentable area shall be the entire area described by measuring to the inside finished surface of the dominant portion of the permanent outer building walls, excluding any major vertical penetrations of the floor which shall include, but not be limited to, stairways, elevator shafts, pipe chases, vertical air ducts, and the enclosing wall of all such excluded areas. Restrooms, corridors, and utility rooms which exclusively serve the floor occupied by the Commonwealth shall be included as part of the rentable area.
 - (b) If the Commonwealth is the only tenant in a one (1) story or multistory building, rentable area shall be calculated pursuant to the provisions of paragraph (a) of this subsection except that those areas excluded pursuant to paragraph (a) shall be included as part of the rentable area.
 - (c) If the Commonwealth shares a floor with one (1) or more other tenants, the rentable area shall be calculated by measuring from the inside finished surface of the dominant portion of the permanent outer building walls to the office side of every corridor wall or other wall separating the Commonwealth's leased space from other adjacent rentable areas which shall include, but not be limited to, space under the control of another tenant, public corridors, restrooms, all common service and utility areas, stairways, elevator shafts, vertical pipe chases, and air ducts.
 - (d) The Commonwealth's rentable area determined pursuant to paragraphs (a), (b), and (c) of this subsection shall include columns and projections necessary to the building.
- (3) The Finance and Administration Cabinet may include in a lease an option to purchase the leased property or a lease-purchase of the leased property.
- (4) If the Finance and Administration Cabinet exercises an option to purchase leased property, the option price shall not exceed the fair market value of the leased property as of the time the lessor and the Commonwealth enter into the option. Two (2) competent and qualified real estate appraisers shall each determine the fair market value. Each real estate appraiser shall be selected by the Finance and Administration Cabinet and shall employ an accepted appraisal technique.
- (5)
 - (a) Except as provided in paragraph (b) of this subsection, if the Finance and Administration Cabinet includes in a lease the lease-purchase of the leased property, two (2) competent and qualified real estate appraisers shall each determine the fair market value of the leased property as of the time the lessor and the Commonwealth enter into the lease. Each appraiser shall be selected by the Finance and Administration Cabinet and shall employ an accepted appraisal technique. The lease shall provide for an initial lease term ending June 30 of the second year of the then current fiscal biennium of the Commonwealth, with the option of the Commonwealth, as lessee, to extend the term of the lease for a term of two (2) years from the expiration of each extended term of the lease, until the original term of the lease has been extended for a total number of years agreed upon by the parties. The agreed rental paid for the original term and for each of the full number of years for which the term of the lease may be

extended shall amortize the fair market value of the leased property as of the time the lessor and the Commonwealth entered into the lease. The lease shall provide that the Commonwealth may, at the expiration of the original or any extended term, purchase the leased property at a stated price, which shall be the balance of the fair market value of the leased property as of the time the lease was entered into which has not been amortized by the payments of rent previously made by the Commonwealth.

- (b) If the Finance and Administration Cabinet includes lease-purchase of the leased property in a lease with the federal government, the terms of the lease-purchase shall be determined through negotiations between the Commonwealth and the federal government.
- (6) Except when a lease incorporates a lease-purchase pursuant to subsection (5) of this section, the Commonwealth shall reserve the right to cancel a lease upon written notice within thirty (30) days.

Section 13. KRS 67A.877 is amended to read as follows:

- (1) The properties to be benefited by construction of a wastewater collection project shall consist of all real properties which are thereby afforded a means of draining wastewater from such properties, whether such real properties consist of unimproved land or contain improvements. Benefited properties shall include all real properties which are directly contiguous and abutting to any proposed sewer, lateral, main, outfall line, transmission line, interceptor, sewer easement to contain a project facility, or other project facility into which sanitary discharge and drainage of wastewater may be accomplished, whether the project sewer facility be constructed by application of the proceeds of the bonds or from funds otherwise made available by the government. Provided, however, the urban-county council of the government undertaking a project may adopt reasonable rules and regulations in respect of benefited property, and may exclude real properties which the urban-county council deems appropriate for exclusion because of location, size or other special circumstances.
- (2) The urban-county council of the government may determine, either in the ordinance of initiation or in subsequent proceedings, the necessity and desirability in the interests of the public health, safety and general welfare, that properties other than the benefited properties be permitted to connect to a wastewater collection project in the future, and may make equitable provisions which may be adjustable from year to year as bonds are retired, whereby the owners of such later-connecting properties may, by paying charges for the privilege of connecting and by assuming assessment obligations, be placed as nearly as practicable on a basis of financial equity with the owners of property initially provided to be benefited and assessed.
- (3) Benefited property owned by any city, county, or urban-county government (or owned by the United States of America or any of its agencies, if such property is subject to assessment by Act of Congress), shall be assessed annually the same as private property, and the amount of the annual assessment shall be paid by the city, county, urban-county government or United States government, as the case may be.
- (4) Benefited property owned by the Commonwealth of Kentucky, except property the title to which is vested in the Commonwealth for the benefit of a district board of education pursuant to KRS 162.010, shall be assessed as follows: Before assessing the Commonwealth, the urban-county council shall serve written notice on the secretary of the Finance and Administration Cabinet of the Commonwealth, setting forth specific details, including the estimated aggregate total amount of any improvement benefit assessment proposed to be levied against any property of the Commonwealth relative to the project. Said written notice shall be served prior to the next *even-numbered-year* regular session of the General Assembly of Kentucky so that the amount of any specific improvement assessment may be included in the biennial executive branch budget recommendation to be submitted to the General Assembly. Payment of any assessment shall be made only from funds specifically appropriated for that assessment. If an amount sufficient to pay the total amount of an assessment has been appropriated, then the total amount shall be paid, as and when due. If an amount sufficient only to pay annual assessment has been appropriated, then only the amount of the annual assessment shall be paid. The amount of the assessment shall be certified by the commissioner of finance of the urban-county government to the Finance and Administration Cabinet, which shall thereupon draw a warrant upon the State Treasurer payable to the government and the State Treasurer shall pay the same.
- (5) In the case of property the title to which is vested in the Commonwealth for the benefit of a district board of education, the amount of the annual assessment shall be paid by the city, county, urban-county government or other local governmental agency or authority which represents the taxing authority of such board of education.
- (6) No benefited property shall be exempt from assessment, except as herein provided.

Section 14. KRS 107.140 is amended to read as follows:

- (1)
 - (a) In the case of improvements of public ways, the benefited property shall consist of all real property abutting upon both sides of the improvement project, and the cost of improving intersections shall be included in the total costs to be assessed and apportioned, unless and to the extent the city shall appropriate, within constitutional limitations, from available funds, a definite and specified sum as a contribution thereto, or a portion of the aggregate cost, or the cost of specified portions of the improvement; provided, however, that if provisions shall be made for sidewalk improvements, as an integral part of the improvement of a "public way," as defined in subsection (3) of KRS 107.020, upon only one side of the project, the costs of the sidewalk improvement shall be ascertained and assessed separately against the property abutting upon that side only, but the governing body may provide that such assessment shall include a fair share of the over-all costs as herein defined, other than the amounts of the actual construction contracts.
 - (b) In the case of improvements for draining sewage, storm water, or a combination thereof, the benefited properties shall consist of all properties which are thereby afforded a means of drainage, including not only the properties which may be contiguous to the improvements, but also adjacent properties within a reasonable distance therefrom as the governing body may in the proceedings set forth.
 - (c) In the case of an improvement project consisting in whole or in part of a sewage treatment plant, or enlargement or substantial reconstruction of an existing sewage treatment plant, the benefited properties shall be all those properties the sewage from which is treated in such plant, including properties already provided with sewer drainage facilities as well as those properties which the improvement project will provide with such drainage facilities, but the governing body may classify properties according to the extent of benefits to be afforded to them, and may establish one (1) rate of assessment applicable to all properties participating in the benefits of the sewage treatment installations, and an additional rate of assessment applicable to properties for which the improvement project will also provide sewer drainage facilities. In relation to wastewater collection projects constructed by metropolitan sewer districts, benefited property shall consist of all property whether improved or unimproved to which the project affords a means of discharging wastewater.
 - (d) The governing body may, either in the proceedings initiating an improvement project, or in subsequent proceedings, recognize the necessity or desirability in the interest of the public health, safety and general welfare, that properties other than the properties originally benefited by an improvement under paragraphs (b) or (c) of this subsection, be permitted to connect to such sewer drainage and/or treatment facilities, and may make equitable provisions which may be adjustable from year to year as bonds are retired, whereby the owners of such later-connecting properties, may, by paying charges for the privilege of connecting, and/or by assuming a share of improvement assessments, or otherwise, be placed as nearly as practicable on a basis of financial equity with the owners of properties initially provided to be assessed.
 - (e) The governing body may, either in the proceedings initiating an improvement project, or in subsequent proceedings, recognize the necessity or desirability in the interest of the public health, safety and general welfare that residential properties within one thousand feet (1000'), measured along paved roads, of a fire hydrant in cities of the third through sixth classes may be assessed on the same basis as property abutting upon a street where a fire hydrant is to be installed.
 - (2)
 - (a) Benefited property owned by the city or county, or owned by the United States government or any of its agencies, if such property is subject to assessment by Act of Congress, shall be assessed annually the same as private property, and the amount of the annual assessment shall be paid by the city, county, or United States government, as the case may be. The same right of action shall lie against the county as against a private owner.
 - (b) Benefited property owned by the state, except property the title to which is vested in the Commonwealth for the benefit of a district board of education pursuant to KRS 162.010, shall be assessed as follows: Before assessing the state, the governing body shall serve written notice on the secretary of the Finance and Administration Cabinet setting forth specific details including the estimated total amount of any improvement assessment proposed to be levied against any state property relative to any proposed improvement project. Said written notice shall be served prior to the next *even-numbered-year* regular session of the General Assembly so that the amount of any specific improvement assessment may be included in the biennial executive branch budget recommendation to be submitted to the General Assembly. Payment of any assessment shall be made only from funds specifically appropriated for that assessment. If an amount sufficient to pay the total amount of any assessment has been appropriated,

then the total amount shall be paid; if an amount sufficient only to pay annual assessments has been appropriated, then only the amount of the annual assessment shall be paid. The amount of the assessment shall be certified by the city treasurer to the Finance and Administration Cabinet, which shall thereupon draw a warrant upon the State Treasurer, payable to the city treasurer, and the State Treasurer shall pay the same.

- (c) In the case of property the title to which is vested in the Commonwealth for the benefit of a district board of education, the amount of the annual assessment shall be paid by the city or other local governmental agency or authority which undertook the improvement project.

- (3) No benefited property shall be exempt from assessment.

Section 15. KRS 151.7282 is amended to read as follows:

By July 1 of each year preceding the convening of the General Assembly in *even-numbered-year* regular session, the authority shall provide the projected six (6) year construction and preconstruction program to the Interim Joint Committee on Agriculture and Natural Resources, the Capital Planning Advisory Board, and the Interim Joint Committee on Appropriations and Revenue.

Section 16. KRS 157.620 is amended to read as follows:

- (1) To participate in the school construction funding program, the district must have unmet needs as defined by KRS 157.615 and must meet the following eligibility criteria:
 - (a) Commit at least an equivalent tax rate of five cents (\$0.05) to debt service, new facilities, or major renovations of existing school facilities as defined by KRS 157.440. A district that levies the five cents (\$0.05) and has not accepted an official offer of assistance from the School Facilities Construction Commission, made pursuant to KRS 157.611, may use receipts from the levy for other purposes as determined by the district board of education.
 - (b) On July 29, 1985, and on June 30 of each year thereafter, the district board of education shall transfer all available local revenue, as defined by KRS 157.615, to a restricted account for school building construction, to be utilized in accordance with the priorities determined by the approved school facilities plan.
- (2) Interest earned on funds deposited in the restricted accounts required by this section shall be deposited in the restricted account and shall become a part of the restricted funds.
- (3) Funds restricted by the requirements of this section may be used by the district for projects or a portion thereof as listed in priority order on the approved school facilities plan prior to receiving state funds. Any local school district which is not an eligible district may be permitted, upon written application to the Department of Education, to transfer funds restricted by KRS 157.611 to 157.640 for other school purposes.
- (4) Not later than October 15 of the year immediately preceding the *even-numbered-year* regular session of the General Assembly, the Kentucky Board of Education shall submit a statement to the School Facilities Construction Commission certifying the following in each district:
 - (a) The amount of school facility construction needs in each district;
 - (b) The amount of available local revenue in each district; and
 - (c) That the district has or has not met the eligibility criteria established by subsection (1) of this section.
- (5) Construction needs shall be those needs specified in the school facilities plan approved by the Kentucky Board of Education as of June 30 of the year preceding the biennium in which funding is approved. All school facilities plans not approved by the State Board for Elementary and Secondary Education since January 1, 1981, shall be revised by December 31, 1985. The Kentucky Board of Education shall conduct public hearings on all amendments to approved plans.
- (6) If a local board of education determines that for any reason the district's approved facility plan is grossly inconsistent with the administrative regulations governing the development of the plan, the local board may certify, by official action, the reason for such inconsistency and may request that the Department of Education resurvey the building needs of the district. After review of the data, the chief state school officer may require a resurvey and the approval of a new facility plan certified prior to an official offer from the School Facilities Construction Commission, and on or before January 15 of any subsequent year. If the chief state school officer

elects to recommend the new facility plan to the Kentucky Board of Education, the board shall notify the School Facilities Construction Commission of any change required in the statement of need for the district.

Section 17. KRS 176.440 is amended to read as follows:

- (1) The state highway engineer shall provide a cost estimate for any project that a member of the General Assembly desires to be considered for advancement or inclusion in the six (6) year road plan if the request is received in writing by the secretary of the Transportation Cabinet no later than November 1 of the year prior to the convening of ~~the even-numbered-year~~^{each} regular session of the General Assembly. The cost estimate under this subsection shall be provided prior to January 15 of the following year.
- (2) The six (6) year road plan presented to the General Assembly for approval and funding as provided in KRS 45.245, the budget memorandum, and KRS 176.420 may be amended by the General Assembly. An amendment by the General Assembly that results in the addition of a new project phase to the six (6) year road plan shall use project phase costs supplied by the state highway engineer.

Section 18. KRS 196.081 is amended to read as follows:

- (1) To facilitate the need for comprehensive planning for the Department of Corrections and for related matters the Kentucky State Corrections Commission is created and is attached to the office of the secretary of the Justice Cabinet. The commission shall consist of twelve (12) members as follows:
 - (a) The Attorney General;
 - (b) The secretary of the Justice Cabinet;
 - (c) The commissioner of the Department of Corrections;
 - (d) The chairman of the Parole Board;
 - (e) The secretary of the Cabinet for Families and Children;
 - (f) A county jailer chosen by the Governor;
 - (g) A Circuit Judge chosen by the Governor from a list of three (3) submitted by the Chief Justice;
 - (h) Two (2) criminal justice professionals who are familiar with correctional research, theory, and program implementation, appointed by the Governor;
 - (i) A representative from a law enforcement agency, appointed by the Governor;
 - (j) A Commonwealth's attorney chosen by the Governor from a list of three (3) submitted by the Prosecutors Advisory Council; and
 - (k) The state Public Advocate.
- (2) The terms of those representatives appointed by the Governor shall be three (3) years. These members shall serve at the pleasure of the Governor and shall be eligible for reappointment. If there is a vacancy, the Governor shall immediately make an appointment effective for the unexpired term.
- (3) The Governor shall appoint a chairman of the corrections commission from among its members. The members of the commission shall elect from among its members a vice chairman who shall preside and exercise the functions of chairman during absence or disability of the chairman.
- (4) Regular meetings of the commission shall be held at least once every three (3) months at a place, day, and hour determined by the commission. Special meetings shall be held when needed as determined by the chairman. If six (6) or more members of the commission request in writing that the chairman call a special meeting, the chairman shall call a special meeting.
- (5) Members of the commission shall receive reimbursement for necessary expenses for attendance at official commission meetings or public hearings. The commission shall be staffed by a director and other staff.
- (6) The commission shall:
 - (a) Develop and approve the methodology to be used by the commission to project and maintain current six (6) year projections of prison populations;
 - (b) Develop a six (6) year plan for Department of Corrections operations, including both construction and programmatic elements; this plan shall be developed with information supplied by the agencies,

departments, and groups represented on the commission, and other public and private agencies and citizens with a vested interest in corrections;

- (c) Monitor, modify, and update the six (6) year plan as necessary but not less frequently than semiannually and submit the current plan to the Legislative Research Commission not later than six (6) months prior to the commencement of every *even-numbered-year* regular session of the General Assembly;
 - (d) Assist the Department of Corrections in preparing and submitting legislative proposals, including budget requests necessary to implement and update the six (6) year plan;
 - (e) Review and make recommendations to the General Assembly concerning legislative proposals, including Department of Corrections budget proposals, to insure consistency with the six (6) year plan;
 - (f) Develop, in cooperation with the Department of Public Advocacy, the Administrative Office of the Courts, the Prosecutors Advisory Council, and other interested parties, a schedule of punitive and rehabilitative alternatives to imprisonment for dissemination to judges, prosecutors, and defense attorneys. The schedule shall include, but shall not be limited to, rehabilitation treatment and counseling, community work and service, and drug and alcohol testing;
 - (g) Receive regular reports from the Department of Corrections, on a schedule established by the commission, as to the department's progress in complying with the six (6) year plan;
 - (h) Review and make recommendations to the department on any significant change in programs, policies, procedures, staffing, classification, or other component of corrections operations which departs from the six (6) year plan;
 - (i) Assist the Legislative Research Commission in the preparation of corrections impact statements for proposed legislation;
 - (j) Make recommendations to the Governor and the General Assembly concerning legislation affecting corrections including, but not limited to, legislation relating to sentencing, probation, and parole;
 - (k) In cooperation with the Administrative Office of the Courts, the Prosecutors Advisory Council, the Department for Community Based Services of the Cabinet for Families and Children, and the Kentucky Bar Association, conduct educational seminars for judges, attorneys, and probation officers, to disseminate information concerning the availability and appropriate utilization of community service, rehabilitation, and other types of alternative sentences and conditions of probation; and
 - (l) Administer the provisions of KRS 196.700 to 196.735.
- (7) The six (6) year plan shall consist of at least the following elements:
- (a) The location, capacity, classification, and staffing of each penal institution and program administered by the Department of Corrections;
 - (b) The location, capacity, classification, staffing, and anticipated cost and time of construction of each new facility to be constructed or each facility expansion to be constructed during the six (6) year plan period;
 - (c) The administrative structure of the Department of Corrections;
 - (d) Prison population projections for the six (6) year plan period;
 - (e) Education, rehabilitation, and prison industries programs administered by the Department of Corrections;
 - (f) The inmate labor program administered by the department; and
 - (g) Contingency plans to deal with unexpected increases in prison population.
- (8) The six (6) year plan shall be submitted to the General Assembly and approved by the General Assembly with the additions, deletions, or modifications the General Assembly shall deem advisable. Upon adoption by the General Assembly, all new facilities, and renovations and expansions of existing facilities, shall be in accordance with the plan, except in the case of an emergency declared by the Governor after the adoption of the plan. All other material changes in the plan shall be presented to the Corrections Commission for review and recommendation prior to implementation. While a change may be implemented without commission

approval, the Corrections Commission shall advise the Legislative Research Commission of any material change request that is not favorably recommended by the commission.

Section 19. KRS 248.520 is amended to read as follows:

The Kentucky Tobacco Research Board shall:

- (1) Formulate policies and procedures as necessary to carry out the provisions of KRS 248.510 to 248.570.
- (2) Promulgate rules and regulations as necessary to carry out the provisions of KRS 248.510 to 248.570 and to ensure proper expenditure of state funds appropriated for the purposes of KRS 248.510 to 248.570.
- (3) Review and authorize tobacco research projects and programs to be undertaken and financed under the provisions of KRS 248.510 to 248.570. When, after diligent search, it is determined by the board that adequate facilities for a particular research project are not available at the University of Kentucky or any other suitable location, the board may use funds appropriated to it to construct research facilities for the project.
- (4) Review and approve all progress and final research reports on projects authorized under the provisions of KRS 248.510 to 248.570.
- (5) Ensure that state funds, appropriated by KRS 248.510 to 248.570 or any other act for tobacco research, are not diverted to any other use and that all authorized research projects are directed toward improvements in the tobacco industry, and more specifically toward proving or disproving questions of health hazards to tobacco users and toward preserving and strengthening the tobacco industry in Kentucky.
- (6) Provide the Governor, the General Assembly, and the Legislative Research Commission an annual report by January 30 of each year showing the status of funds appropriated under KRS 248.510 to 248.570 for tobacco research and the progress of the board in terms of the results of its tobacco research efforts.
- (7) Advise the General Assembly by January 30 during each *even-numbered-year* regular session of the need for continuation of the Kentucky Tobacco Research Board and the tax levied by Chapter 255 of the Acts of 1970 for the purpose of financing tobacco research programs as provided by KRS 248.510 to 248.570.
- (8) Approve and release public statements relating to the progress and results of tobacco research projects.

Section 20. KRS 154.10-090 is amended to read as follows:

- (1) The secretary and the directors of other state agencies and entities receiving state funds for programs and activities which may affect state economic development shall cooperate in the coordination of those programs and activities to achieve the successful implementation of the state's strategic economic development plan.
- (2) The board shall compile a list of state agencies and the extent to which they have direct programmatic involvement in Kentucky's economic development systems. This information shall be presented to the General Assembly before each *even-numbered-year* regular session for the purpose of considering programmatic and budget adjustments.
- (3) Nothing in this chapter shall be construed as modifying, superseding, or repealing any provisions of KRS Chapter 146, 151, 224, or 350, or the obligations of the Natural Resources and Environmental Protection Cabinet under those chapters.

Section 21. KRS 164.250 is amended to read as follows:

The board of trustees shall make a full report to the General Assembly, within the first month of each *even-numbered-year* regular session, of the condition and operation of the university since the date of the previous report, with such recommendations concerning the university as are deemed necessary.

Section 22. KRS 45.800 is amended to read as follows:

- (1) Except as otherwise provided in subsection (2)(b) of KRS 45.770, prior to transferring funds from any source to the allotment account of a capital construction project or major item of equipment, the relevant entity head, or his designee, shall present to the Capital Projects and Bond Oversight Committee, at least fourteen (14) days prior to the committee meeting, for its review, specification of the amount of the proposed transfer, documentation of the necessity for the transfer, and, with respect to capital construction projects, documentation of:
 - (a) The amount already expended on the project prior to and during the current biennium; and

- (b) Any alterations made or planned in the project since its consideration by the General Assembly during the most recent *even-numbered-year* regular session.
- (2) Within thirty (30) days after submission to the committee of a proposed capital construction and equipment purchase contingency account transfer, the committee shall determine whether the amount of the proposed transfer is reasonable and consistent with KRS 45.770, whether the proposed transfer is necessary, and whether any alterations made or planned in a project materially change the project as considered and authorized by the General Assembly. If the committee does not approve a proposed transfer or other proposed action, the committee, unless the Legislative Research Commission directs otherwise, shall promptly transmit its findings and determination to the head of the entity that presented the proposal.
- (3) If the committee does not approve a proposed transfer or other proposed action, the transfer shall not be made nor the action taken unless the relevant entity head, or his designee, shall:
 - (a) Revise the transfer or action to comply with the objections of the committee;
 - (b) Cancel the transfer or action; or
 - (c) Determine to make the transfer or take the action not approved by the committee.
- (4) The decision made by the relevant entity head, or his designee, under the preceding subsection shall be communicated to the committee in writing within thirty (30) days of the committee's not approving the proposed transfer or other proposed action.
- (5) The committee, unless the Legislative Research Commission directs otherwise, shall maintain records of its findings and determinations and the relevant entity head's, or his designee's, report of his action on each proposed transfer from the capital construction and equipment purchase contingency account. If the committee determines that the amount of a proposed transfer is not reasonable or is not consistent with KRS 45.770, or that the transfer is not necessary, or if the committee finds that any alteration in a project materially changes the project as considered and approved by the General Assembly, the committee's determination and the action of the secretary of the Finance and Administration Cabinet, or other appropriate entity head, on the transfer shall be transmitted to the appropriate interim joint committees of the Legislative Research Commission and to the General Assembly when next convened.
- (6) The committee, unless the Legislative Research Commission directs otherwise, shall maintain reports of purchases made under subsection (12) of KRS 45.760, reports of transfers made under KRS 45.760 to this section, reports of transfers made from the emergency repair, maintenance, and replacement account, and a record of any committee finding or recommendation relating to such purchases and transfers.
- (7) The committee shall monitor the costs of state capital construction projects in comparison with the costs of construction for the private sector to determine whether the costs are comparable and, if not comparable, the reasons for any difference. The committee shall consider contractors' charges to the state, land acquisition costs, costs and availability of materials, cost and availability of labor, and laws, regulations, and purchasing procedures pertaining to state capital construction projects that are not applicable to construction for the private sector. The committee's findings and recommendations shall be transmitted to the appropriate interim joint committee of the Legislative Research Commission and to the General Assembly when convened.

Section 23. KRS 45.760 is amended to read as follows:

The provisions of any other law notwithstanding:

- (1) The head of each of the three (3) branches of government shall include in the branch budget recommendation and in the draft branch budget bill for his branch submitted to each *even-numbered-year* regular session of the General Assembly pursuant to KRS 48.130, for the biennium period beginning July 1, 1994, and for each biennium thereafter, a recommended state capital projects program and a recommended program for the purchase of major items of equipment.
- (2) The recommended capital construction program shall include:
 - (a) A complete list and summary description of each specific capital construction project recommended for funding during the biennium; and
 - (b) For each project:
 - 1. The agency and purpose for which it will be used;

2. The justification for the project;
 3. Its estimated completion date;
 4. The total estimated cost of completing the project;
 5. The estimated cost of the project during the biennium;
 6. The recommended sources of funds for the entire project; and
 7. The dollar amounts recommended for appropriation and the dollar amounts, listed by source, that are anticipated from every other source of funds for the biennium.
- (3) All information required by subsection (2) of this section shall be included in each branch budget recommendation. Each branch budget bill shall contain only a complete list of the specific capital construction projects recommended for funding during the biennium and, for each project, the information specified in subparagraphs 5., 6., and 7. of subsection (2)(b) of this section.
- (4) A report which details the effect of recommended new debt on the debt position of the Commonwealth shall be submitted at the same time the recommended capital program is submitted. Information shall be presented separately, and in total, for the general fund, the road fund, and for any affected restricted fund account.
- (5) Information in the report shall include, but not be limited to, the following:
- (a) Debt service on existing appropriation-supported debt as a percent of anticipated total revenues;
 - (b) Debt service on existing appropriation-supported debt as a percent of anticipated available revenues;
 - (c) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of anticipated total revenues;
 - (d) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of anticipated available revenues;
 - (e) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of estimated state total personal income; and
 - (f) The sum of existing appropriation-supported debt and recommended new appropriation-supported debt, as a percent of estimated state total personal income.
- (6) During any biennium beginning July 1, 1992, and during each biennium thereafter, the amount allotted, from all sources, for expenditure on any project in the state capital construction program for that biennium shall not exceed the estimated cost of the project during that biennium, as shown in any branch budget bill, statutory budget memorandum, and biennial budget report enacted by the General Assembly, except as provided in this section, KRS 45.770, and 45.780.
- (7) The recommended program for the purchase of major items of equipment, submitted by the head of each of the three (3) branches of government, shall include:
- (a) A complete list and summary description of each specific major item of equipment recommended for purchase during the biennium; and
 - (b) For each major item of equipment:
 1. The agency and purpose for which it will be used;
 2. The justification for the purchase;
 3. The estimated cost of the item, including ancillary expenses and any expenses necessary to make the equipment functional and operational;
 4. The recommended sources of funds; and
 5. The dollar amounts recommended for appropriation and anticipated from every other source of funds for the purchase.
- (8) All information required by subsection (5) of this section shall be included in the executive branch budget recommendation. The branch budget bill for the executive branch shall contain only a complete list of each specific item of major equipment recommended for purchase during the biennium and, for each item, the information specified in subparagraphs 3., 4., and 5. of subsection (7)(b) of this section.

- (9) When the General Assembly disapproves a project or item of equipment that was previously approved, it shall be eliminated as a project or major item of equipment in the Capital Projects Program. General fund moneys appropriated for that project or item of equipment but not allotted, and general fund moneys allotted but not expended to the project or equipment account, shall be transferred to the capital construction and equipment purchase contingency account in the capital construction fund. Agency or federal funds for a disapproved project or item, that have been appropriated but unallotted or allotted but unexpended, shall be returned to the appropriate agency fund. Road fund moneys for a disapproved project or item that have been appropriated but unallotted or allotted but unexpended, shall be returned to the Road Fund Surplus Account.
- (10) Projects and major items of equipment disapproved under subsection (9) of this section shall be terminated.
- (11) During any biennium beginning July 1, 1992, and during each biennium thereafter, the amount allotted from all sources for expenditure for the purchase of any major item of equipment shall not exceed the estimated cost of the item as shown in any branch budget bill, statutory budget memorandum, and biennial budget report enacted by the General Assembly and authorizing the purchase, except as provided in subsections (12) and (13) of this section and in KRS 45.770 and 45.780.
- (12) A major item of equipment to be used for medical, scientific, or research purposes, excluding computer equipment and aircraft, may be authorized even though it is not specifically listed in any branch budget bill, statutory budget memorandum, and biennial budget report enacted for the current biennium, subject to the following conditions and procedures:
- (a) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be reallocated for expenditure on the item; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs;
 - (b) Funds are available for the purchase and the method of financing the purchase will not require an additional appropriation of state funds to acquire the item; and
 - (c) The purchasing agency shall, within thirty (30) days after making the purchase, report the purchase to the Capital Projects and Bond Oversight Committee. The report shall include a description of the item, the purpose for which it will be used, the necessity for the purchase, and the amount expended for the purchase from each source of funds used.
- (13) Moneys from any source may be transferred to the allotment account of any capital project authorized by the General Assembly under this section, subject to the following conditions and procedures:
- (a) The total amount transferred shall not exceed fifteen percent (15%) of the amount authorized by the General Assembly unless:
 - 1. The source of funds is private or federal; or
 - 2. An unforeseen decision by a federal or state court or regulatory agency requires the transfer.
 - (b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallocated for expenditure on the capital project.
 - (c) Moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs.
 - (d) The relevant entity head, or his designee, shall submit the capital project to the Capital Projects and Bond Oversight Committee at least fourteen (14) days prior to the committee meeting. The submission shall include a written certification to the committee that the transfer, in excess of fifteen percent (15%) of the amount authorized by the General Assembly, is:
 - 1. Paid for out of private or federal funds; or
 - 2. Required by an unforeseen decision by a federal or state court or regulatory agency; and
 - 3. Not allotted or reallocated from moneys specifically budgeted and appropriated by the General Assembly for another purpose; and
 - 4. Not jeopardizing any existing program and not requiring the use of any current general funds specifically dedicated to existing programs.

- (e) If a capital project is financed with road funds, the cost overruns or scope increases shall be paid out of the highway contingency account established pursuant to KRS 45.247.
- (14) A capital construction project or a major item of equipment may be authorized even though it is not specifically listed in any branch budget bill, statutory budget memorandum, and biennial budget report, subject to the following conditions and procedures:
 - (a) Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds, and fifty percent (50%) or less of the actual cost shall be funded by moneys appropriated to the capital construction and equipment purchase contingency account or, if the purpose of the project or equipment is to reduce energy costs, the relevant entity head certifies projected energy cost savings associated with the project or equipment are reasonable and sufficient to produce an aggregate simple payback period, as defined by KRS 56.770, of five (5) years or less;
 - (b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallocated for expenditure on the project or major item of equipment; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs; and
 - (c) The relevant entity head, or his designee, shall submit the project or major item of equipment to the committee for review as provided by KRS 45.800.
- (15) The capital construction and equipment purchase contingency fund may be used to advance funds to projects authorized to be financed by bonds, to finance feasibility studies for projects which may be contemplated for future funding, or to audit the capital projects program when authorized by the General Assembly.
- (16) On or before October 1, each of the three (3) branches of government shall submit to the committee the following information:
 - (a) A complete list and summary description of every capital construction project and major item of equipment not completed as of June 30 of the prior fiscal year; and
 - (b) For each project and major item of equipment, as of July 1, of the current fiscal year:
 1. The project phase;
 2. The project account number, project name, and any other term employed to identify the project or major item of equipment;
 3. The available balance in the project or major item of equipment account, and any sums considered available for that project or major item of equipment;
 4. A statement of the transfers of funds to or from the project or major item of equipment account; and, any account to which transfers from each project or major item of equipment has been made;
 5. The year in which the project or major item of equipment was approved, with specific reference to the legislation by which the project or item was approved;
 6. Total expenditure on the project or major item of equipment;
 7. The current estimated completion cost, including the amount required for annual inflation; and
 8. A statement that additional funds for the completion of the project or major item of equipment are or are not required; and, if required, why sufficient funds for completion are not available; and
 - (c) The balance in the appropriated, but unallotted account; and the balance in any account, however designated, that contains appropriated, but unallotted funds for capital construction.
- (17) When the General Assembly authorizes a capital construction item in the capital construction section of a branch budget bill, the entity head charged with executing the branch budget shall construct the capital construction item according to the requirements set forth in the branch budget bill, statutory budget memorandum, supporting documentation considered by the General Assembly, and branch budget records. The entity head shall not deviate from these requirements with regard to:
 - (a) Purpose or location to the extent that the capital construction item no longer meets the identified needs; or

- (b) Configuration for reasons other than practical accommodation to the construction site or specific program to be accommodated within that capital construction item.

Section 24. KRS 342.843 is amended to read as follows:

- (1) The Attorney General and the Auditor of Public Accounts shall monitor the operations of the authority.
- (2) Either the Attorney General or the Auditor of Public Accounts, or both, may make at any time any examinations or investigations, jointly or severally, of the operations, practices, management, or other matters relating to the authority as they deem necessary. Either of them shall have the power to subpoena witnesses and records for these purposes, and otherwise to compel the giving of evidence for any matter under study. The Attorney General, the Auditor of Public Accounts, or any employee authorized by either of them may require the giving of this evidence under oath and may administer the oath. Any person voluntarily providing information or evidence may be required to do so under oath administered by the Attorney General, the Auditor of Public Accounts, or any employee authorized by either of them. If any person fails or refuses to testify or furnish documentary evidence concerning any matter requested, the Franklin Circuit Court, on application of either the Attorney General or the Auditor of Public Accounts or both, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the Circuit Court or of a refusal to testify in the Circuit Court.
- (3) The Attorney General and the Auditor of Public Accounts shall have without restriction:
 - (a) Full access to all records of the authority, except that confidential medical records of employees of insureds are available only by subpoena;
 - (b) Full access to all financial transactions and investigations of the authority; and
 - (c) The right to attend all meetings of the board and its committees.
- (4) If fraud, mismanagement, illegal activity, imprudent practices, or other deficiencies are found in the operations or other practices of the authority, the Attorney General or Auditor of Public Accounts, or both shall:
 - (a) Recommend internal corrective action;
 - (b) Institute a civil action or action for injunctive relief to compel corrective action;
 - (c) Institute criminal proceedings against any officer or employee of the authority or any other person, as defined in KRS 446.010, as may be necessary; or
 - (d) Any combination of the above listed actions or any other form of action reasonably calculated to assure efficient and honest operations of the authority and those involved with it.
- (5) The Attorney General and the Auditor of Public Accounts shall report jointly to the General Assembly in January of each year in which the General Assembly convenes in *an even-numbered-year* regular session the results of the monitoring activities required by this section.

Section 25. KRS 342.1223 is amended to read as follows:

- (1) The Kentucky Workers' Compensation Funding Commission is created as an agency of the Commonwealth for the public purpose of controlling, investing, and managing the funds collected pursuant to KRS 342.122.
- (2) The commission shall:
 - (a) Hold, administer, invest, and reinvest the funds collected pursuant to KRS 342.122 and its other funds separate and apart from all "state funds" or "public funds," as defined in KRS Chapter 446;
 - (b) Act as a fiduciary, as defined in KRS Chapter 386, in exercising its power over the funds collected pursuant to KRS 342.122, and may invest association funds through one (1) or more banks, trust companies, or other financial institutions with offices in Kentucky in good standing with the Department of Financial Institutions, in investments described in KRS Chapter 386, except that the funding commission may, at its discretion, invest in nondividend-paying equity securities;
 - (c) Report to the General Assembly at each *even-numbered-year* regular session the actuarial soundness and adequacy of the funding mechanism for the special fund and other programs supported by the mechanism, including detailed information on the investment of funds and yields thereon;

- (d) Recommend to the General Assembly, not later than October 31 of the year prior to each *even-numbered-year* regular legislative session, changes deemed necessary in the level of the assessments imposed in this chapter;
 - (e) In conjunction with the Labor Cabinet, submit to the General Assembly, not later than October 31 of the year prior to each *even-numbered-year* regular legislative session, a proposed budget for the biennium beginning July 1 following the *even-numbered-year* regular session of the General Assembly;
 - (f) In conjunction with the Labor Cabinet, provide to the Interim Joint Committee on Appropriations and Revenue an annual budget and detailed quarterly financial reports;
 - (g) Conduct periodic audits, independently or in cooperation with the Labor Cabinet or the Revenue Cabinet, of all entities subject to the assessments imposed in this chapter; and
 - (h) Report monthly to the Committees on Appropriations and Revenue and on Labor and Industry its monthly expenditures of restricted agency funds and the nature of the expenditures.
- (3) The commission shall have all of the powers necessary or convenient to carry out and effectuate the purposes for which it was established, including, but not limited to, the power:
- (a) To sue and be sued, complain, or defend, in its name;
 - (b) To elect, appoint, or hire officers, agents, and employees, and define their duties and fix their compensation within the limits of its budget approved by the General Assembly;
 - (c) To contract for investment counseling, legal, actuarial, auditing, and other professional services in accordance with the provisions relating to personal service contracts contained in KRS Chapter 45A;
 - (d) To appoint, hire, and contract with banks, trust companies, and other entities to serve as depositories and custodians of its investment receipts and other funds;
 - (e) To take any and all other actions consistent with the purposes of the commission and the provisions of this chapter; and
 - (f) To make and promulgate administrative regulations.
- (4) Notwithstanding the provisions of this chapter to the contrary, the Kentucky Workers' Compensation Funding Commission shall utilize the investment expertise and advice of the Office of Financial Management rather than entering into a consulting contract for investment counseling. The fees charged by financial institutions for managing the investments of the funds of the funding commission shall be paid from the investment earnings of the funds.
- (5) The commission shall be attached to the Labor Cabinet for administrative purposes only.

Section 26. KRS 304.17A-665 is amended to read as follows:

Sixty (60) days prior to the regular session of the General Assembly in 2002, and sixty (60) days prior to each subsequent *even-numbered-year* regular session of the General Assembly, the commissioner shall submit a written report to the Legislative Research Commission on the impact on health insurance costs of KRS 304.17A-660 to 304.17A-669.

Section 27. KRS 198A.165 is amended to read as follows:

The corporation shall be authorized and empowered in connection with the issuance of its bonds and notes for housing purposes pursuant to this chapter to establish in respect of such bonds and notes such reserve funds or replacement funds as may be required in the sound discretion of the board of directors of the corporation to enable the corporation to effectuate its proper public purposes. In the event any such reserve fund or replacement fund created by the corporation in connection with any such bond issue or note issue should, in violation of any contract made by the corporation with any bondholder or note holder be monetarily deficient in any respect as of any date of accounting so stipulated by the corporation, the corporation shall immediately make formal request in writing to the secretary of the Finance and Administration Cabinet, and to the Governor of Kentucky that sums adequate to restore such reserve fund or replacement fund to its contractually required level and to pay any overdue principal and interest on any outstanding bonds and notes of the corporation be included in the next succeeding executive budget, and that such budget request with recommendation for approval by the General Assembly to the corporation for the use and benefit of such reserve fund or replacement fund. In the event the next scheduled *even-numbered-year* regular session of the General Assembly of Kentucky shall occur more than six (6) months after any such request by the corporation, the

corporation shall request that sums adequate to restore such reserve fund or replacement fund to such contractually required level and to pay any overdue principal and interest on any outstanding bonds and notes of the corporation be made available from the Governor's contingency fund, and if such funds are so made available the budget request hereinabove described in this section shall be correspondingly reduced.

Section 28. KRS 164A.160 is amended to read as follows:

The corporation shall be authorized and empowered in connection with the issuance of its bonds and notes for student loan purposes pursuant to this chapter to establish in respect of such bonds and notes such reserve funds or replacement funds as may be required in the sound discretion of the board of directors of the corporation to enable the corporation to effectuate its proper public purposes. In the event any such reserve fund or replacement fund created by the corporation in connection with any such bond issue or note issue should, in violation of any contract made by the corporation with any bondholder or noteholder be monetarily deficient in any respect as of any date of accounting so stipulated by the corporation, the corporation shall immediately make formal request in writing to the secretary of the Finance and Administration Cabinet, and to the Governor of Kentucky that sums adequate to restore such reserve fund or replacement fund to its contractually required level and to pay any overdue principal and interest on any outstanding bonds and notes of the corporation be included in the next succeeding executive budget, and that such budget request with recommendation for approval by the General Assembly of an appropriated legislative appropriation by the General Assembly to the corporation for the use and benefit of such reserve fund or replacement fund be submitted to such session of the General Assembly. In the event the next scheduled ***even-numbered-year*** regular session of the General Assembly of Kentucky shall occur more than six (6) months after any such request by the corporation, the corporation shall request that sums adequate to restore such reserve fund or replacement fund to such contractually required level and to pay any overdue principal and interest on any outstanding bonds and notes of the corporation be made available from the Governor's contingency fund, and if such funds are so made available the budget request hereinabove described in this section shall be correspondingly reduced.

Section 29. KRS 64.780 is amended to read as follows:

- (1) The board may at any time submit to any county official a written questionnaire concerning the affairs of his office. Every official shall answer fully and completely all questions so propounded and shall return the questionnaire to the chairman within fourteen (14) days.
- (2) The board shall submit a written report to the interim legislative committee having jurisdiction of matters relating to county government and county officials by October 1 of every odd-numbered year and to every ***even-numbered-year*** regular session of the General Assembly containing recommendations concerning the compensation of county officials, including but not limited to the following items:
 - (a) Consolidation of the offices of sheriff and jailer in all counties or in certain classes of counties;
 - (b) Methods to improve the auditing and accounting systems of county officials;
 - (c) Means to classify counties or county officials;
 - (d) Based on a classification system, salary grades for county officials for each class;
 - (e) Guidelines for the expenditure of income of the offices of county officials;
 - (f) Increase, decrease, creation, or abolishment of any state-financed compensation fund or expense account for county officials;
 - (g) Establishment of a minimum salary for county officials and the amount thereof;
 - (h) Increase or decrease in the maximum salary allowed county officials and the amount thereof;
 - (i) Revision and clarification of fee schedules of county officials; and
 - (j) Retirement system and benefits for county officials.

Section 30. KRS 164A.080 is amended to read as follows:

- (1) The corporation may provide for the issuance, at one (1) time or from time to time, of not exceeding nine hundred fifty million dollars (\$950,000,000) in bonds of the corporation to carry out and effectuate its corporate purposes and powers. In anticipation of the issuance of bonds, the corporation may provide for the issuance, at one (1) time or from time to time, of bond anticipation notes. The principal of and the interest on bonds or notes shall be payable solely from the funds provided for payment. Any notes may be made payable

from the proceeds of bonds or renewal notes or, if bond or renewal note proceeds are not available, notes may be paid from any available revenues or assets of the corporation. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the corporation at the price or prices and under the terms and conditions determined by the corporation. Any bonds or notes shall bear interest at a rate or rates determined by the corporation. Notes shall mature at a time or times not exceeding five (5) years from their date or dates and bonds shall mature at a time or times not exceeding thirty (30) years from their date or dates, as determined by the corporation. The corporation shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the state. If any officer whose signature or a facsimile of whose signature appears on any bonds or notes or coupons attached to them shall cease to be an officer before the delivery of the bonds or notes, the signature or facsimile shall be valid and sufficient for all purposes as if he had remained in office until the delivery. The corporation may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the corporation may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the corporation authorizing the sale of its bonds or notes, the bonds or notes may be sold in a manner, either at public or private sale, and for a price the corporation shall determine to be for the best interest of the corporation and best effectuate the purposes of this chapter if the sale is approved by the corporation.

- (2) The proceeds of any bonds or notes shall be used solely for the purposes for which they are issued and shall be disbursed in a manner and under restrictions, if any, the corporation may provide in the resolution authorizing the issuance of bonds or notes or in the trust agreement securing the bonds or notes. The principal of and interest on any bonds issued by the corporation shall be payable only from the proceeds derived by the corporation from insured student loans made and purchased from the proceeds of the bonds.
- (3) (a) Prior to the issuance of any bonds or notes that are not secured by the repayment of student loans at least ninety-five percent (95%) insured by the guarantee agency and reinsured by the United States of America, the corporation shall obtain approval of the issuance from the General Assembly in accordance with the provisions of KRS 56.870(1). This requirement shall not apply to refunding bond or note issues which are for the purpose of achieving debt service savings and which do not extend the term of the refunded bond or note.
- (b) Notwithstanding paragraph (a) of this subsection, if during the interim of sessions of the General Assembly, the federal act is amended to reduce to less than ninety-five percent (95%) the maximum rate of insurance payable by the guarantee agency or reinsurance payable by the Secretary of Education of the United States on insured student loans, upon notification by the corporation to the Legislative Research Commission of the change in the federal act, the corporation may, until the adjournment of the next *even-numbered-year* regular session of the General Assembly, issue bonds or notes for student loans insured by the guarantee agency and reinsured by the Secretary of Education of the United States to the maximum extent permitted by the federal act.

Approved March 15, 2001

CHAPTER 59

(HB 96)

AN ACT relating to reorganization.

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

Section 1. KRS 11.505 is amended to read as follows:

- (1) There is hereby created within the Office of the Governor an agency of state government known as the Governor's Office for Technology.
- (2) The Governor's Office for Technology shall be headed by the chief information officer for the Commonwealth established in KRS 11.511.

- (3) The Governor's Office for Technology shall consist of the following six (6) executive offices, each headed by an executive director:
- (a) Office of Geographic Information;
 - (b) Office of Human Resource Management and Development;
 - (c) Office of Administrative Services, consisting of the:
 - 1. Division of Financial and Business Management; and
 - 2. Division of Asset Management;
 - (d) Office of Policy and Customer Relations, consisting of the:
 - 1. Division of Planning and Architecture;
 - 2. Division of Relationship Management; and
 - 3. Division of Information Technology Training;
 - (e) Office of Infrastructure Service, consisting of the:
 - 1. Division of End User Support;
 - 2. Division of Security Services;
 - 3. Division of Computing Services;~~{and}~~
 - 4. Division of Communication Services; and
 - 5. ***Division of Information Technology Operations;***
 - (f) Office of Consulting and Project Management, consisting of the:
 - 1. Division of Centers of Expertise;
 - 2. Division of Project Office and Integration;
 - 3. Division of Human Services Systems;
 - 4. Division of Financial Systems;
 - 5. Division of Transportation Systems;~~{and}~~
 - 6. Division of Workforce Development and General Government Systems; ***and***
 - (g) ***Office of General Counsel.***

Section 2. The Health Services Systems Branch within the Division of Human Services Systems shall be renamed the Human Services Branch.

Section 3. The following KRS section is repealed:

61.957 Chairman -- Duties of council.

Section 4. The General Assembly confirms Executive Order 2000-1315, dated October 4, 2000, to the extent it is not otherwise confirmed by this Act. The Order includes: the duties of the Office of General Counsel and direction that the Chief Information Officer appoint the executive director; the duties of the Division of Information Technology Operations and direction that the Chief Information Officer appoint the executive director; and a requirement that the Governor's Office for Technology provide production services for the Workforce Development Cabinet.

Approved March 15, 2001

CHAPTER 60**(HB 204)**

AN ACT relating to criminal records checks.

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

Section 1. KRS 161.148 is amended to read as follows:

- (1) As used in this section, "volunteers" means adults who assist teachers, administrators, or other staff in public school classrooms, schools, or school district programs, and who do not receive compensation for their work.
- (2) Local school districts may utilize adult volunteers in supplementary instructional and noninstructional activities with pupils under the direction and supervision of the professional administrative and teaching staff.
- (3) Each board of education shall develop policies and procedures that encourage volunteers to assist in school or district programs.
- (4) Each local board of education shall develop and adopt a policy requiring a state criminal records check on all volunteers who have contact with students on a regularly scheduled or continuing basis, or who have supervisory responsibility for children at a school site or on school-sponsored trips. The request for records may be from the Justice Cabinet or the Administrative Office of the Courts, or both, and shall include records of all available convictions as described in KRS 17.160(1). Any request for a criminal records check of a volunteer under this subsection shall be on a form or through a process approved by the Justice Cabinet or the Administrative Office of the Courts. If the cabinet or the Administrative Office of the Courts charges fees, the local board of education shall arrange to pay the cost which may be from local funds or donations from any source including volunteers.
- (5) The local board of education shall provide orientation material to all volunteers who have contact with students on a regularly scheduled or continuing basis, including school policies, safety and emergency procedures, and other information deemed appropriate by the local board of education.
- (6) ***The provisions of this section shall not apply to students enrolled in an educational institution and who participate in observations and educational activities under direct supervision of a local school teacher or administrator in a public school.***

Section 2. KRS 161.042 is amended to read as follows:

- (1) The Kentucky Board of Education shall provide through administrative regulation for the utilization of the common schools for the preparation of teacher education students from the colleges and universities.
- (2) Within the provisions established by the Kentucky Board of Education, local boards of education are authorized to enter into cooperative agreements, including financial arrangements, with colleges and universities for the purpose of providing professional laboratory experiences and student teaching experiences for students preparing for the education profession.
- (3) A supervising teacher shall have professional competencies as set out in administrative regulations promulgated by the Education Professional Standards Board. If obtainment of a degree above the baccalaureate level is required of supervising teachers, the Education Professional Standards Board shall waive the requirement for teachers who have at least twenty (20) years of teaching experience and who have worked as a supervising teacher during the past five (5) years.
- (4) A student teacher who is jointly assigned under agreement by a teacher education institution and a local board of education shall have the same legal status and protection as a certificated teacher employed within the school district and shall be responsible to the administrative staff of the school district and the supervising teacher to whom he is assigned. ***All student teachers shall be subject to the state and national criminal records checks required of certified hires under provisions of KRS 160.380.***
- (5) Teacher education students, other than student teachers, may be permitted through cooperative agreements between the local school district and the teacher education institution, to engage in supplementary instructional activities with pupils under the direction and supervision of the professional administrative and teaching staff of the school district. ***Teacher education students shall not be subject to the criminal records checks required under KRS 161.148 or KRS 160.380.***

Section 3. KRS 160.380 is amended to read as follows:

- (1) As used in this section:
 - (a) "Relative" shall mean father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.
 - (b) "Vacancy" shall mean any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.
- (2)
 - (a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the Kentucky Board of Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself to another position within the school district.
 - (b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer thirty (30) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing.
 - (c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days.
 - (d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky Board of Education, report annually the district's recruitment process and the activities used to increase the percentage of minority teachers in the district.
 - (e) No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is a classified or certified employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office, or prior to marrying a relative of the superintendent, and who is qualified for the position the employee holds. A superintendent's spouse who has at least twenty (20) years of service in school systems may be an employee of the school district. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote a relative who continues employment under an exception of this subsection.
 - (f) No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection.
 - (g)
 1. No principal's relative shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year.

2. No spouse of a principal shall be employed in the principal's school, except:
 - a. A principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district; or
 - b. A principal's spouse who was employed in the 1989-90 school year and is in a school district containing no more than one (1) elementary school, one (1) middle school, and one (1) high school.
 3. A principal's spouse who is employed in the principal's school shall be evaluated by a school administrator other than the principal.
 4. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph.
- (3) No superintendent shall employ in any position in the district any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony. The superintendent may employ, at his discretion, persons convicted of sex crimes classified as a misdemeanor.
- (4) (a) Beginning January 1, 1999, a superintendent shall require a national and state criminal background check on all new certified hires in the school district *and student teachers assigned within the district*. Excluded are certified individuals who were employed in another certified position in a Kentucky school district within six (6) months of the date of hire and who had previously submitted to a national and state criminal background check for the previous employment.
- (b) The superintendent shall require that each new certified hire *and student teacher*, as set forth in paragraph (a) of this subsection, submit to a national and state criminal history background check by the Kentucky State Police and the Federal Bureau of Investigation.
- (c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation from the Kentucky State Police after a state criminal background check is conducted. The results of the state and federal criminal background check shall be sent to the hiring superintendent. Any fee charged by the Kentucky State Police and the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (d) The Education Professional Standards Board may promulgate administrative regulations to impose additional qualifications to meet the requirements of Public Law 92-544.
- (5) A superintendent shall require a state criminal background check on all classified initial hires.
- (a) The superintendent shall require that each classified initial hire submit to a state criminal history background check by the Kentucky State Police.
- (b) Any request for records under this section shall be on an applicant fingerprint card provided by Kentucky State Police. The results of the state criminal background check shall be sent to the hiring superintendent. Any fee charged by the Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (6) (a) If a school term has begun and a certified or classified position remains unfilled or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the criminal history background check. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.
- (b) Employment shall be contingent on the receipt of the criminal history background check documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165.
- (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the school district of a criminal history background check documenting a record of a sex crime or as a violent offender as defined in KRS 17.165 and no further procedures shall be required.

- (d) The provisions of KRS 161.790 shall apply to terminate employment of a certified employee on the basis of a criminal record other than a record of a sex crime or as a violent offender as defined in KRS 17.165.
- (7) (a) Each application or renewal form, provided by the employer to an applicant for a classified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."
- (b) Each application or renewal form, provided by the employer to an applicant for a certified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."
- (8) The provisions of subsections (4), (5), (6), and (7) of this section shall apply to a nonfaculty coach or nonfaculty assistant as defined under KRS 161.185.

Approved March 15, 2001

CHAPTER 61

(HB 140)

AN ACT relating to continuing education about acquired immunodeficiency syndrome.

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

Section 1. KRS 214.610 is amended to read as follows:

- (1) (a) The Cabinet for Health Services ***or the licensing board or certifying entity, subject to the board's or entity's discretion,*** shall approve appropriate educational courses on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome, ***that may address***~~[with an emphasis on]~~ appropriate behavior and attitude change, to be completed as specified in the respective chapters by each person licensed or certified under KRS Chapters 311, 312, 313, 314, 315, 320, 327, 333, and 335 and emergency medical technicians certified pursuant to KRS Chapter 311. ***Each licensing board or certifying entity shall have the authority to determine whether it shall approve courses or use courses approved by the cabinet. Completion of the courses shall be required at the time of initial licensure or certification in the Commonwealth, as required under Section 2 and Section 3 of this Act, and shall not be required under this section or any other section more frequently than one (1) time every ten (10) years thereafter, unless the licensing board or certifying entity specifically requires more frequent completion under administrative regulations promulgated in accordance with KRS Chapter 13A.***
- (b) ***The Department for Public Health shall publish on its web site the current informational resources for the development of the educational courses or programs. To the extent possible, the educational courses or programs under this subsection shall:***
 - 1. ***Include changes in Kentucky law affecting HIV testing and reporting; confidentiality and privacy of HIV-related data, information, and reports; and advances in treatment protocols, intervention protocols, coordination of services, and other information deemed important by the Department for Public Health and the Centers for Disease Control and Prevention (CDC);***
 - 2. ***Inform all professions involved with or affected by the birthing process about the importance of HIV testing of pregnant women and the probability of preventing perinatal transmission of HIV with appropriate treatment; and***
 - 3. ***Update all health care professionals identified under paragraph (a) of this subsection requesting information about the potential involvement of their occupation in the treatment or prevention of blood-borne pathogens with the latest CDC guidelines on occupational exposure to HIV and other blood borne pathogens.***

- (2) Each licensee or certificate holder shall submit confirmation on a form provided by the cabinet of having completed the course by July 1, 1991, except persons licensed under KRS Chapters 314 and 327 for whom the completion date shall be July 1, 1992.

Section 2. KRS 214.615 is amended to read as follows:

- (1) The **licensing board or certifying entity**~~[cabinet]~~ shall require as a condition of granting a license **or certificate** under the chapters specified in KRS 311.450, 311.601, 312.175, 313.080, 313.305, 314.073, 315.065, 320.280, 327.050, 333.190, 335.080, 335.090, 335.100, and 335.150 that an applicant making initial application for licensure **or certification** complete an educational course approved by the cabinet **or the licensing board or certifying entity** on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome. An applicant who has not taken a course at the time of licensure **or certification** shall upon an affidavit showing good cause be allowed six (6) months to complete this requirement.
- (2) The **licensing board or certifying entity**~~[cabinet]~~ may promulgate administrative regulations to carry out the provisions of this section.
- ~~{(3) The cabinet shall report to the General Assembly by March 1 of each year, as to the implementation and compliance with the requirements of this section.}~~

Section 3. KRS 214.620 is amended to read as follows:

- (1) The boards of the professions in KRS 311.450, 311.571, 311.601, 312.085, 312.175, 313.040, 313.080, 313.290, 313.305, 314.041, 314.042, 314.051, 314.073, 315.050, 315.065, 320.250, 320.280, 327.050, 333.100, 333.190, 335.080, 335.090, 335.100, and 335.150, and the Cabinet for Health Services shall begin planning for the implementation of those sections listed above which require, as a part of initial licensure, applicants for certain specified professions to complete an educational course on the transmission, control, treatment, and prevention of human immunodeficiency virus and acquired immunodeficiency syndrome. The planning shall include collecting information from the facilities and programs which educate and train the licensed professionals affected by the licensure requirements of those sections listed above and shall also include developing administrative regulations for the implementation of the licensure requirements.
- (2) The Cabinet for Health Services shall develop, **if requested by a licensing board or certifying entity**, instructional material on the human immunodeficiency virus, including information related to methods of transmission, education, and infection control. The materials developed under this section shall be provided to persons licensed under KRS Chapters 317 and 317A. Costs of production and distribution of the instructional materials shall be wholly assumed from the fees assessed by the licensing boards which regulate the professionals who are provided with educational materials under this section. To expeditiously and economically develop, produce, and distribute the instructional material required under this section, the Cabinet for Health Services shall consult with the professional associations of professions to determine whether suitable instructional materials already exist that may be lawfully reproduced or reprinted.
- (3) The Cabinet for Human Resources shall require that, by July 1, 1992, all employees of health facilities defined in KRS 216B.015 shall have completed an educational course on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change except for those employees who shall have completed such a course as required for their professional licensure or upon evidence that the employee received such a course from another health facility where the employee was previously employed.
- (4) Information on the human immunodeficiency virus infection shall be presented to any person who receives treatment at any hospital, however named, skilled-nursing facilities, primary-care centers, rural health clinics, outpatient clinics, ambulatory-care facilities, ambulatory surgical centers, and emergency-care centers licensed pursuant to KRS Chapter 216B. The information shall include, but not be limited to, methods of transmission and prevention and appropriate behavior and attitude change.
- (5) **Notwithstanding any provision of law to the contrary, the licensing board or certifying entity of any profession required to complete the course described in subsection (1) or (2) of this section shall have the discretion to develop and approve its own instructional course to be required for the profession under the jurisdiction of the respective licensing board or certifying entity.**

Section 4. KRS 311.450 is amended to read as follows:

- (1) Every license issued for the practice of podiatry shall expire on June 30 following the date of issuance unless sooner revoked and canceled.
- (2) On or before June 1 of each year, the board shall send notices to all licensed podiatrists in this state, at their last known addresses, advising them that the annual license renewal fee is due on July 1 of each year. Every registered podiatrist shall renew his license on or before July 1 of each year by the payment to the board of an annual license renewal fee which shall be a reasonable fee set by regulation of the board and upon submission of a statement of compliance with the continuing education regulations of the board. The regulations shall include a requirement to complete the course described in KRS 214.610(1) ***at least one (1) time every ten (10) years, but the board may in its discretion require completion of the course more frequently.*** If such renewal fee is not paid or such statement of compliance is not submitted on or before July 1, the board shall notify the delinquent licensee by mail at his last known address that such fee and statement are past due and that a delinquent penalty fee is assessed, in addition to the renewal fee and that the renewal fee and penalty must be paid and the statement of compliance submitted on or before January 1. If such fees, penalties and statement are not submitted by January 1, it shall be the duty of the board to suspend or revoke the license for nonpayment of the annual renewal and delinquent fees or for failure to submit the statement of compliance for the current year.
- (3) All fees collected under the provisions of KRS 311.380 to 311.510, or the rules and regulations adopted pursuant thereto, shall be paid into the State Treasury, and credited to a trust and agency fund to be used in defraying the costs and expenses in the administration of KRS 311.380 to 311.510 including, but not limited to, salaries and necessary travel expenses. No part of this fund shall revert to the general funds of this Commonwealth.

Section 5. KRS 311.601 is amended to read as follows:

- (1) The board may adopt reasonable rules and regulations to effectuate and implement the provisions of KRS 311.550 to 311.620, including but not limited to regulations designed to insure the continuing professional competency of present and future licensees. As an adjunct to the power conferred upon the board by this section, the board may require licensees to submit to interrogation as to the nature and extent of their postgraduate medical education and to require licensees found to be deficient in their efforts to keep abreast of new methods and technology, to obtain additional instruction and training therein.
- (2) Any continuing medical education requirement which the board may institute by regulation shall include the completion of the course described in KRS 214.610(1) ***at least one (1) time every ten (10) years, but the board may in its discretion require completion of the course more frequently.***

Section 6. KRS 311.6541 is amended to read as follows:

- (1) The Kentucky Board of Emergency Medical Services shall promulgate administrative regulations relating to emergency medical technicians. The administrative regulations may include the classification and certification of emergency medical technicians, instructors, instructor-trainers, and students and trainees; examinations; standards of training and experience; curricula standards; issuance, renewal, suspension, denial, revocation, probation, and restriction of certificates; hearing of appeals; and other reasonable standards as may be necessary for the protection of public health and safety in the delivery of emergency medical services. No additional testing or examinations shall be required for recertification, except for proficiency testing of new skills or knowledge, or areas in which there is documented evidence of deterioration of skills.
- (2) Recertification programs shall be organized to include continuing education and in-service training approved by the Kentucky Board of Emergency Medical Services. The continuing education program ***may include updated training as specified under*** ~~shall be subject to the requirements of~~ KRS 214.610(1). ***The board shall require updated training as specified under subsection (1) of Section 1 of this Act at least one (1) time every ten (10) years, but the board may in its discretion require the training more frequently.***
- (3) Beginning July 14, 2000, a new emergency medical technician shall, for initial certification, be certified using the requirements and testing established by the National Registry of Emergency Medical Technicians.
- (4) Beginning July 14, 2000, a certified emergency medical technician who seeks recertification shall obtain recertification under the requirements established and maintained by the Kentucky Board of Emergency Medical Services. These requirements shall contain a minimum of sixteen (16) hours of required topics and eight (8) hours of elective topics over a two (2) year recertification period. The Kentucky Board of Emergency Medical Services shall also recertify any emergency medical technician who chooses to obtain recertification

under the requirements established by the National Registry of Emergency Medical Technicians in lieu of the standards established by the Kentucky Board of Emergency Medical Services.

- (5) Other than the requirements of KRS 214.610(1), the Kentucky Board of Emergency Medical Services shall not require any additional course work, in-service training, testing, or examinations of a person who chooses the National Registry of Emergency Medical Technicians or its successor organization for certification or recertification as an emergency medical technician.
- (6) Other than the requirements of KRS 214.610(1), any person licensed by the Kentucky Board of Emergency Medical Services as a paramedic shall be certified as an emergency medical technician by the board. The certification shall be issued without fee, without additional training, in-service training, testing, or examination. The emergency medical technician certification shall be issued and expire at the same time that the paramedic license is issued or expires, and if a paramedic voluntarily gives up his or her license prior to the expiration of his or her paramedic license, his or her emergency medical technician certification shall be unaffected thereby. If a paramedic chooses not to be relicensed as a paramedic but chooses to retain his emergency medical technician certification, the paramedic shall, prior to the expiration of his paramedic license, complete the requirements for recertification as an emergency medical technician utilizing one (1) of the methods provided for in this section.
- (7) A paramedic whose license as a paramedic is suspended, revoked, or denied by the Kentucky Board of Emergency Medical Services shall have the same action taken automatically with regard to his emergency medical technician certification.

Section 7. KRS 312.175 is amended to read as follows:

- (1) After July 14, 1992, all persons licensed to practice chiropractic in this state shall, on or before the first day of March, annually hereafter renew his license and pay a renewal fee of not more than one hundred dollars (\$100) for each nonresident licensee and not more than two hundred dollars (\$200) for each resident licensee each year to the board. In addition to the payment of the renewal fee, the licensee so applying for a license renewal shall furnish to the board satisfactory evidence that he has attended an educational program in the year preceding each application for renewal. Satisfactory evidence of attendance of postgraduate study at an institution approved by the board shall be considered equivalent. Any education shall include completion of the course described in KRS 214.610(1) ***at least one (1) time every ten (10) years, but the board may in its discretion require completion of the course more frequently.*** Provided, however, that licenses may be renewed by the board, at its discretion, and the applicant may be excused from paying the renewal fee or attending the annual educational program, or both, in instances where the applicant submits an affidavit to the board evidencing that he, for good cause assigned, suffered a hardship which prevented the applicant from renewing the license or attending the educational program at the proper time.
- (2) The executive secretary of the board shall send a written notice to every person holding a valid license to practice chiropractic within this state at least thirty (30) days prior to the first day of March in each year, directed to the last known address of the licensee, and shall enclose with the notice proper blank forms for application for annual license renewal. The executive secretary shall, within thirty (30) days, notify every person failing to renew his license after it is due that he is delinquent and is subject to a late penalty of one hundred dollars (\$100). If the licensee fails to renew his license within ninety (90) days after the mailing of the delinquent notice then his license shall be revoked for nonrenewal. Any licensee whose license has been revoked for failure to renew his license may have his license restored upon the payment of a restoration fee not to exceed two hundred dollars (\$200) for each delinquent year or any part thereof in addition to the renewal fee of not more than three hundred dollars (\$300) and upon presentation of satisfactory evidence of postgraduate study of a standard approved by the state board or upon a showing that he is an exception as provided for in subsection (1) of this section. Any licensee whose license has been revoked for more than four (4) years for failure to renew his license may have his license restored after satisfactorily passing the examination as provided in KRS 312.115 and upon payment of the regular application fee.

Section 8. KRS 313.080 is amended to read as follows:

- (1) Each person who is licensed to practice dentistry in Kentucky shall, by the thirty-first day of December of each odd-numbered year, register with the board and maintain satisfactory evidence of completion of continuing education as provided in this section. The registration shall be made on a form prescribed by the board and furnished by the board's executive director, and shall include the licensee's name, address, license number, and any other available information that the board may consider necessary. All registrations shall be in effect for

the two (2) year period beginning on the first day of January of the following even-numbered year and ending on the last day of December of the following odd-numbered year.

- (2) By December 31 of each biennial licensing period as provided in subsection (1) of this section, every dentist licensed to practice in this state shall return to the board evidence satisfactory to the board that the dentist has accumulated a sufficient number of points for continuing dental education in accordance with a schedule of points which shall be adopted by the board. However, that the board, in its discretion, may make exceptions to the point requirement for continuing dental education for any hardship or other extenuating circumstances that the board deems appropriate. The continuing dental education shall include completion of the course described in KRS 214.610(1) ***at least one (1) time every ten (10) years, but the board may in its discretion require completion of the course more frequently.***
- (3) By December 31 of each biennial licensing period as provided in subsection (1) of this section, every dentist licensed to practice in this state shall return to the board the renewal notice properly signed and a license fee in the amount prescribed by the board. The dentist shall thereupon receive a license renewal certificate, if the dentist has also complied with the requirements of subsection (2) of this section. The board shall fix the license fee at an amount as is necessary to maintain a revolving fund at an approximate level of one hundred fifty thousand dollars (\$150,000). The license fee for each licensing period shall be set by the board. Notice of the amount of license renewal fee shall be given to each dentist licensed in the state by the board not later than thirty (30) days before the end of the renewal period.
- (4) Any license granted by the board shall be automatically suspended if the holder fails to submit a properly completed renewal application to the board, with payment of the renewal fee, as required in this section. For purposes of this section, any renewal application shall be deemed timely submitted if it is delivered to the board office by December 31, or duly mailed and postmarked by that date. Any license thus suspended may be restored by the board upon the payment to the board of the biennial registration fee, and in addition thereto, a reinstatement fee of fifty dollars (\$50) within one (1) year after the suspension.
- (5) Each dentist licensed under this chapter shall notify the board in writing of any change in the person's name, office address, or employment within ten (10) days after the change has taken place.

Section 9. KRS 313.305 is amended to read as follows:

- (1) Each person who is licensed to practice dental hygiene in the Commonwealth shall, by the thirty-first day of December of each even-numbered year, register with the board and maintain satisfactory evidence of completion of continuing education as provided in this section. The registration shall be made on a form prescribed by the board and furnished by the board's executive director and shall include the licensee's name, address, license number, and any other available information that the board may consider necessary. All registrations shall be in effect for the two (2) year period beginning on the first day of January of the following odd-numbered year and ending on the last day of December of the following even-numbered year.
- (2) By December 31 of each biennial licensing period as provided in subsection (1) of this section, every dental hygienist licensed to practice in this state shall return to the board evidence satisfactory to the board that the dental hygienist has accumulated a sufficient number of points for continuing dental hygienist education in accordance with a schedule of points which shall be adopted by the board. Continuing dental hygienist education shall include completion of the course described in KRS 214.610(1) ***at least one (1) time every ten (10) years, but the board may in its discretion require completion of the course more frequently.*** In approving continuing education activities, the board shall develop criteria to determine the actual effect upon the competency of the participant. However, the board, in its discretion, may make exceptions to the point requirement for continuing dental hygienist education for any hardship or other extenuating circumstances that the board deems appropriate.
- (3) By December 31 of each biennial licensing period as provided in subsection (1) of this section, every dental hygienist licensed to practice in this state shall return to the board the hygienist's renewal notice properly signed and a fee prescribed by the board by administrative regulation subject to the provisions of KRS Chapter 13A. The dental hygienist shall then receive a license renewal certificate, if compliance with the requirements of subsection (1) of this section is met. The biennial renewal license fee shall be established by the board in an amount as is necessary to maintain the level of the revolving fund in accordance with the provisions of KRS 313.080. The license fee for each licensing period shall be set biennially by the board. Notice of change in the amount of license renewal fee shall be given to each dental hygienist licensed in the state by the board not later than thirty (30) days prior to each renewal period.

- (4) Any license granted by the board shall be suspended if the holder fails to submit a properly completed renewal application to the board, with payment of a renewal fee, as required in this section. For purposes of this section, any renewal application shall be deemed timely submitted if it is delivered to the board office by December 31, or duly mailed and postmarked by that date. Any license thus suspended may be restored by the board upon the payment to the board of the biennial registration fee and, in addition thereto, of a reinstatement fee of twenty-five dollars (\$25) within one (1) year after the suspension.
- (5) Each dental hygienist licensed to practice under this chapter shall notify the board in writing of any change in the licensee's name, office address, or employment within ten (10) days after the change has taken place.

Section 10. KRS 314.073 is amended to read as follows:

- (1) Except for the first licensure renewal following the issuance of an original license by the board, as a prerequisite for license renewal, all individuals licensed under provisions of this chapter shall be required to document continuing competency during the immediate past licensure period as prescribed in regulations promulgated by the board.
- (2) The continuing competency requirement shall be documented and reported as set forth by the board in administrative regulations promulgated in accordance with KRS Chapter 13A.
- (3) The board shall approve providers of continuing education. The approval may include recognition of providers approved by national organizations and state boards of nursing with comparable standards. Standards for these approvals shall be set by the board in administrative regulations promulgated in accordance with the provisions of KRS Chapter 13A.
- (4) The board shall work cooperatively with professional nursing organizations, approved nursing schools, and other potential sources of continuing education programs to assure that adequate continuing education offerings are available statewide. The board may enter into contractual agreements to implement the provisions of this section.
- (5) The board shall be responsible for notifying applicants for licensure and licensees applying for license renewal, of continuing competency requirements.
- (6) The continuing competency requirements shall include the completion of the course described in KRS 214.610(1) ***at least one (1) time every ten (10) years, but the board may in its discretion require completion of the course more frequently.***
- (7) In order to offset administrative costs incurred in the implementation of the mandatory continuing competency requirements, the board may charge reasonable fees as established by regulation in accordance with the provisions of KRS Chapter 13A.
- (8) The continuing competency requirements shall include at least five (5) contact hours in pharmacology continuing education for any person registered as an advanced registered nurse practitioner.

Section 11. KRS 315.065 is amended to read as follows:

- (1) Because of the continuous introduction of new therapeutic and diagnostic agents and changing concepts in the practice of pharmacy, it is essential that a pharmacist undertake a program of continuing education to maintain his professional competency to practice in the public interest.
- (2) No pharmacist's license shall be renewed until the license holder is able to submit written proof to the board that he has satisfactorily completed, in the previous renewal period, a continuing education program acceptable to the board. Such continuing education requirements shall be determined by regulation of the board, ***and shall include, at least one (1) time every ten (10) years, provided,*** ~~the course described in KRS 214.610(1) is included,~~ but they shall not require more than an average of one and one-half (1-1/2) continuing education units (CEU) per year. ***The board may in its discretion require completion of the course described in subsection (1) of Section 1 of this Act more frequently.***
- (3) The board shall adopt rules and regulations to carry out the provisions of this section, to include guidelines and criteria for reviewing and approving continuing education programs.

Section 12. KRS 320.280 is amended to read as follows:

- (1) All optometrists desiring to continue practice shall annually, prior to March 1, secure from the secretary-treasurer of the board a renewal certificate upon the payment of a fee of not more than two hundred dollars (\$200). Not later than February 15 of each year the board shall notify by mail all optometrists of the renewal

date and fee. Application for a renewal shall be upon a form prescribed by the board and the optometrist shall furnish the information required by the form.

- (2) As a prerequisite for license renewal, all optometrists now or hereafter licensed in the Commonwealth of Kentucky are and shall be required to take annual courses of study in subjects relating to the practice of optometry to the end that the utilization and application of new techniques, scientific and clinical advances, and the achievement of research will assure expansive and comprehensive care to the public. The annual courses of study shall include the course described in KRS 214.610(1) ***at least one (1) time every ten (10) years, but the board may in its discretion require completion of the course more frequently.*** The length and content of study shall be prescribed by the board but shall not exceed eight (8) hours in any calendar year, with the exception of those optometrists who are authorized to prescribe therapeutic agents who shall be required to have additional credit hours of continuing education in ocular therapy and pharmacology, the amount of required credit hours to be determined by the board, but not to exceed an additional seventeen (17) credit hours, for a total not to exceed twenty-five (25) credit hours per year. Attendance shall be at a course or by a sponsor approved by the board. Attendance at any course or courses of study is to be certified to the board upon a form provided by the board and shall be submitted by each licensed optometrist at the time he makes application to the board for the renewal of his license and payment of his renewal fee. The board may waive the continuing education requirement in cases of illness or undue hardship.
- (3) Failure of any optometrist to secure his renewal certificate within sixty (60) days after March 1, shall constitute sufficient cause for the board to revoke his license.

Section 13. KRS 327.050 is amended to read as follows:

- (1) Before applying for licensure by the board as a physical therapist, a person shall have successfully completed an accredited program in physical therapy approved by the board and shall have fulfilled the requirements of KRS 214.615(1). No school shall be approved by the board unless it has been approved for the educational preparation of physical therapists by the recognized national accrediting agency for physical therapy educational programs.
- (2) Any person who possesses the qualifications required by this chapter and who desires to apply for licensure as a physical therapist in Kentucky shall make written application to the board, on forms to be provided by the board. The application shall be accompanied by a nonrefundable application fee in an amount to be determined by the board, but not to exceed two hundred fifty dollars (\$250).
- (3) If it appears from the application that the applicant possesses the qualifications required by this chapter and has not yet successfully completed the board-approved examination, the applicant shall be allowed to sit for the examination and tested in the subjects the board may determine to be necessary.
- (4) Examinations shall be held within the state at least once a year at the time and place as the board shall determine.
- (5) An applicant who is admitted to the examination or an applicant who has submitted satisfactory evidence that he has been accepted as a candidate for licensure by examination in a state which offers an examination approved by the board may be granted a temporary permit which shall be valid until his examination is graded and he is notified by the board of his score. The board may summarily withdraw a temporary permit upon determination that the person has made any false statement to the board on the application, or the person fails to pass an examination approved by the board.
- (6) An applicant who receives a passing score as determined by the board and who meets the other qualifications required by this chapter shall be licensed as a physical therapist.
- (7) An applicant who fails to receive a passing score on his examination shall not be licensed, but the board may, by administrative regulation, permit applicants to take the examination more than once.
- (8) All licenses and certificates shall be renewed biennially, upon payment on or before March 31 of each uneven-numbered year of a renewal fee in an amount to be promulgated by the board by administrative regulations. Any licensed or certified person seeking renewal shall ***be required to complete the***~~retain for three (3) years proof of the completion of the~~ course described in KRS 214.610(1) ***at least one (1) time every ten (10) years, but the board may in its discretion require completion of the course more frequently. Proof of completion of the course shall be retained for three (3) years following completion***~~on the form provided by the cabinet~~.
- (9) Licenses and certificates which are not renewed by March 31 of each uneven-numbered year shall lapse.

- (10) This chapter shall not be construed to affect or prevent:
- (a) A student of physical therapy from engaging in clinical practice under the supervision of a licensed physical therapist, as part of the student's educational program;
 - (b) A physical therapist who is licensed to practice in another state or country from conducting or participating in a clinical residency under the supervision of a physical therapist licensed in Kentucky and for a period of not more than ninety (90) days;
 - (c) A physical therapist who is licensed to practice in another state or country from conducting or participating in the teaching of physical therapy in connection with an educational program and for a period of not more than ninety (90) days;
 - (d) A physical therapist licensed in another state or country from performing therapy on members of the out-of-state sports or entertainment group they accompany to Kentucky; or
 - (e) The practice of chiropractic as defined in KRS 312.015(3).

Section 14. KRS 333.190 is amended to read as follows:

A medical laboratory license may be denied, revoked, suspended, limited, annulled, or renewal thereof denied for any of the following reasons:

- (1) Making false statements on an application for medical laboratory license or any other documents required by the cabinet.
- (2) Permitting unauthorized persons to perform technical procedures or to issue or sign reports.
- (3) Demonstrating incompetence or making frequent errors in the performance or reporting of medical laboratory examinations and procedures.
- (4) Performing a test and rendering a report thereon to a person not authorized by law to receive such services.
- (5) Reporting the results determined on a specimen by a medical laboratory which has not been licensed or exempted under this chapter.
- (6) Rendering a report on medical laboratory work actually performed in another medical laboratory without designating the name of the director and the name and address of the medical laboratory in which the test was performed.
- (7) Knowingly having professional connection with or knowingly lending the use of the name of the licensed medical laboratory or its director to an unlicensed medical laboratory.
- (8) Violating or aiding and abetting in the violation of any provision of this chapter or the rules or regulations promulgated hereunder.
- (9) Failing to submit to the cabinet any report required by the provisions of this chapter or the reasonable rules and regulations promulgated hereunder.
- (10) Failure of medical laboratory personnel, trainees, assistants or other individuals employed by a medical laboratory, to complete the course specified in KRS 214.610(1) ***at least one (1) time every ten (10) years, unless the cabinet requires, by promulgation of an administrative regulation in accordance with KRS Chapter 13A, completion of the course more frequently***~~[on an annual basis]~~.

Approved March 15, 2001

CHAPTER 62

(HB 89)

AN ACT relating to reorganization.

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

Section 1. The General Assembly hereby confirms Executive Order 2000-1502, dated November 28, 2000, which changes the name of the Division of Clinical Services to the Division of Care Coordination and creates the Division of Medical Services within the Commission for Children with Special Health Care Needs. The Division of Care Coordination shall be responsible for all program functions previously performed by the Division of Clinical

Services with the exception of the Hematology Branch which shall be administered by the Division of Medical Services. The Division of Medical Services shall be responsible for the Hematology and the newly established Universal Newborn Hearing Screening programs of the Commission for Children with Special Health Care Needs. Functions shall include administration of programs for bleeding disorders, such as hemophilia and sickle cell disease, and the statewide Universal Newborn Hearing Screening initiative.

Approved March 15, 2001

CHAPTER 63

(HCR 89)

A CONCURRENT RESOLUTION to establish a task force to study the long-term funding needs for emergency medical services.

WHEREAS, ambulance services are funded through a variety of sources, including private pay, Medicare, Medicaid, private insurance, and local and state funds; and

WHEREAS, Medicare is the payor source for nearly fifty percent of ambulance services; and

WHEREAS, Medicare in Kentucky is administered by AdminaStar; and

WHEREAS, ambulance services across the Commonwealth are experiencing a financial crisis related to the denial of claims or the failure to process claims in a timely manner; and

WHEREAS, AdminaStar takes up to a year to process claim appeals from the ambulance services; and

WHEREAS, Medicare owes more than \$15 million in ambulance claims filed by ambulance providers in the Commonwealth; and

WHEREAS, when ambulance services experiences a financial deficit, county and city governments often must provide funds to cover the deficit; and

WHEREAS, the deficit may be greater than the budgeted funds for ambulance services and could create financial crises for local governments; and

WHEREAS, the financial crisis has led to one ambulance service closing, and several others have filed a notice of intent to close; and

WHEREAS, the current financial crisis that ambulance services are experiencing is threatening the public health and safety of the citizens in many counties of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to establish a task force to study the need for long-term funding of emergency medical services in the Commonwealth. The task force shall have the following responsibilities:

- (1) Identify funding necessary to provide emergency medical services across the state, including funds for education, administration, equipment, and services;
- (2) Identify sources of immediate funding for ambulance services;
- (3) Identify sources of long-term funding for emergency medical services and programs;
- (4) Identify deficits in funding for ambulance services; and
- (5) Identify strategies to ensure that governmental payors and private insurers adequately cover ambulance services;

Section 2. The President of the Senate shall appoint three (3) members of the Senate and the Speaker of the House shall appoint three (3) members of the House of Representatives. The President of the Senate shall appoint one (1) legislative member as a co-chair, and the Speaker of the House shall appoint one (1) legislative member as a co-

chair of the task force. In addition to the legislative members, the task force shall consist of the following members, one-half of which, in each of the following categories, shall be appointed by the President of the Senate and one-half of which shall be appointed by the Speaker of the House of Representatives:

(1) Two (2) mayors of cities that operate, either directly or through contract services, a licensed ambulance service;

(2) Two (2) county judges/executive from counties that operate, either directly or through contract services, a licensed ambulance service;

(3) Four (4) administrators of licensed Class I ground ambulance services; and

(4) Two (2) representatives of private insurance companies that provide coverage for ambulance services.

The membership shall also consist of the following members:

(1) The chairman of the Kentucky Board of Emergency Medical Services;

(2) The executive director of the Kentucky Board of Emergency Medical Services; and

(3) An individual designated by the Kentucky Ambulance Providers Association.

Section 3. The task force shall submit a final report of its findings and recommendations no later than September 1, 2001, to the Legislative Research Commission.

Section 4. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Approved March 15, 2001

CHAPTER 64

(HB 98)

AN ACT relating to reorganization.

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

Section 1. KRS 15A.020 is amended to read as follows:

There is established within the cabinet a Department of State Police, a Department of Corrections, *a Department of Juvenile Justice*, and a Department of Criminal Justice Training. Each department shall be headed by a commissioner appointed by the secretary with the approval of the Governor as required by KRS 12.050. The commissioners shall be directly responsible to the secretary and shall perform such functions, powers, and duties as provided by law and as the secretary may prescribe.

Section 2. KRS 15A.067 is amended to read as follows:

(1) As used in this section, "facility" means any of the facilities specified in KRS 15A.200 operated by a political subdivision of the Commonwealth of Kentucky for the care of juveniles alleged to be delinquent or adjudicated delinquent.

(2) (a) There is established within the Department of Juvenile Justice, a Division of Program Services, that shall be responsible for ensuring the delivery of appropriate educational programs to incarcerated youth. Each facility shall provide educational services to youth who may be ordered by the court to remain in the juvenile detention facility for an indeterminate period.

(b)~~[(3)]~~ Any other statutes to the contrary notwithstanding, the Department of Juvenile Justice shall have access to all educational records, public or private, of any juvenile in a facility or program or informal adjustment authorized by law.

(c)~~[(4)]~~ The Division of Program Services shall ensure that all incarcerated youth be provided appropriate screening and educational programs as follows:

1.~~[(a)]~~ For students identified before incarceration as having an educational disability, the Division of Program Services shall make specially designed instruction and related services available as

required by Kentucky Board of Education administrative regulations applicable to students with disabilities.

2.~~{(b)}~~ For students incarcerated for more than fourteen (14) days, the division shall ensure that appropriate screening is provided to all youth. Screening shall include, but not be limited to, seeking the juvenile's educational record.

3.~~{(c)}~~ For students incarcerated for more than thirty (30) days, the division shall ensure that all youth are provided an appropriate education.

(d)~~{(5)}~~ The Department of Juvenile Justice shall be responsible for providing, in its contracts with private juvenile detention facilities and county jails, the specific obligations of those entities to provide educational services to incarcerated juveniles consistent with this section, including funding provisions.

(e)~~{(6)}~~ The Department of Education and all local school district administrators shall cooperate with officials responsible for the operation of juvenile detention facilities and with the Division of Program Services to ensure that all documents necessary to establish educational status and need shall follow the students who are being held in these facilities so the students can be afforded educational opportunities.

(f) 1.~~{(7)-(a)}~~ Upon disposition by the juvenile court that an adjudicated juvenile shall stay in a juvenile detention facility for any period of time, the facility shall notify the juvenile's last resident school district of the student's whereabouts.

2.~~{(b)}~~ Within five (5) days after the juvenile is released, the Division of Program Services shall notify the district in which the student will reside of the youth's release and educational status and forward any educational records.

(g)~~{(8)}~~ The Department of Juvenile Justice shall, after consultation with the Department of Education, promulgate an administrative regulation for the effective implementation of this section.

(3) *There is established within the Department of Juvenile Justice, a Division of Placement Services that shall be responsible for the management, policy direction, and coordination of all matters relating to the classification, evaluation, and placement of juveniles committed to or detained by the department. The division shall also be responsible for the transportation of juveniles committed to or detained by the department.*

Section 3. The General Assembly confirms Executive Order 2000-1501, dated November 28, 2000, relating to the Department of Juvenile Justice, to the extent it is not otherwise confirmed by this Act.

Approved March 15, 2001

CHAPTER 65

(HB 133)

AN ACT relating to security interests.

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

Section 1. KRS 186A.190 is amended to read as follows:

- (1) Except as provided in subsection (4) of this section, the perfection and discharge of a security interest in any property for which has been issued a Kentucky certificate of title shall be by notation on the certificate of title. The notation of the security interest on the certificate of title shall be in accordance with this chapter and shall remain effective from the date on which the security interest is noted on the certificate of title for a period of seven (7) years, or, in the case of a manufactured home, for a period of **thirty (30)**~~fourteen (14)~~ years, or until discharged under this chapter and KRS Chapter 186. The filing of a continuation statement within the six (6) months preceding the expiration of the initial period of a notation's effectiveness extends the expiration date for seven (7) additional years.
- (2) Except as provided in subsection (4) of this section, the notation of security interests relating to property required to be titled in Kentucky through the county clerk shall be done in the office of the county clerk of the county in which the debtor resides. If the debtor is other than a natural person, the following provisions govern the determination of the county of the debtor's residence:

- (a) A partnership shall be deemed a resident of the county in which its principal place of business in this state is located. If the debtor does not have a place of business in this state, then the debtor shall be deemed a nonresident for purposes of filing in this state;
- (b) A limited partnership organized under KRS Chapter 362 shall be deemed a resident of the county in which its office is located, as set forth in its certificate of limited partnership or most recent amendment thereto filed pursuant to KRS Chapter 362. If such office is not located in this state, the debtor shall be deemed a nonresident for purposes of filing in this state;
- (c) A limited partnership not organized under the laws of this state and authorized to do business in this state under KRS Chapter 362 shall be deemed a resident of the county in which the office of its process agent is located, as set forth in the designation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;
- (d) A corporation organized under KRS Chapter 271B, 273, or 274 or a limited liability company organized under KRS Chapter 275 shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent corporate filing with the Secretary of State which officially designates its current registered office;
- (e) A corporation not organized under the laws of this state, but authorized to transact or do business in this state under KRS Chapter 271B, 273, or 274, or a limited liability company not organized under the laws of this state, but authorized to transact business in this state under KRS Chapter 275, shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent filing with the Secretary of State which officially designates its current registered office;
- (f) A cooperative corporation or association organized under KRS Chapter 272 shall be deemed a resident of the county in which its principal business is transacted, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;
- (g) A cooperative corporation organized under KRS Chapter 279 shall be deemed a resident of the county in which its principal office is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;
- (h) A business trust organized under KRS Chapter 386 shall be deemed a resident of the county in which its principal place of business is located, as evidenced by the recordation of its declaration of trust in that county pursuant to KRS Chapter 386;
- (i) A credit union organized under KRS Chapter 290 shall be deemed a resident of the county in which its principal place of business is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky; and
- (j) Any other organization (defined in KRS 355.1-201) shall be deemed a resident of the county in which its principal place of business in this state is located, except that any limited partnership or corporation not organized under the laws of this state and not authorized to transact or do business in this state shall be deemed a nonresident for purposes of filing in this state. If the organization does not have a place of business in this state, then it shall be deemed a nonresident for purposes of filing in this state.

If the debtor does not reside in the Commonwealth, the notation of the security interest shall be done in the office of the county clerk in which the property is principally situated or operated. Notwithstanding the existence of any filed financing statement under the provisions of KRS Chapter 355 relating to any property registered or titled in Kentucky, the sole means of perfecting and discharging a security interest in property for which a certificate of title is required by this chapter is by notation on such property's certificate of title. In other respects the security interest is governed by the provisions of KRS Chapter 355.

- (3) Except as provided in subsection (4) of this section, before ownership of property subject to a lien evidenced by notation on the certificate of title may be transferred, the transferor shall obtain the release of the prior liens in his name against the property being transferred. Once a security interest has been noted on the owner's title, no subsequent title may be issued by any county clerk free of such notation unless the owner's title is presented to the clerk and it has been noted thereon, that the security interest has been discharged. If this requirement is met, information relating to any security interest shown on the title as having been discharged may be omitted from the title to be issued by the clerk.
- (4) Notwithstanding subsections (1), (2), and (3) of this section, a county clerk shall, following inspection of the vehicle by the sheriff, to determine that the vehicle has not been stolen, issue a new title to a vehicle, clear of

all prior liens, to a person after he provides to the county clerk an affidavit devised by the Transportation Cabinet and completed by the person. In the affidavit, the person shall attest that:

- (a) He possesses the vehicle;
 - (b) A debt on the vehicle was owed him for more than thirty (30) days before he provided the notices required by paragraphs (c) and (d) of this subsection;
 - (c) More than fourteen (14) days before presenting the affidavit to the county clerk, the person attempted to notify the owner of the vehicle and all known lienholders, including those noted on the title, by certified mail, return receipt requested, of his name, address, and telephone number as well as his intention to obtain a new title, clear of all prior liens, unless the owner or a lienholder objected in writing;
 - (d) More than fourteen (14) days before presenting the affidavit to the county clerk, the person had published a legal notice stating his intention to obtain title to the vehicle. The legal notice appeared at least twice in a seven (7) day period in a newspaper published, and with a statewide circulation, in Kentucky. The legal notice stated:
 - 1. The person's name, address, and telephone number;
 - 2. The owner's name;
 - 3. The names of all known lienholders, including those noted on the title;
 - 4. The vehicle's make, model, and year; and
 - 5. The person's intention to obtain title to the vehicle unless the owner or a lienholder objects in writing within fourteen (14) days after the last publication of the legal notice; and
 - (e) Neither the owner nor a lienholder has objected in writing to the person's right to obtain title to the vehicle.
- (5) No more than two (2) active security interests may be noted upon a certificate of title.
 - (6) In noting a security interest upon a certificate of title, the county clerk shall ensure that the certificate of title bears the lienholder's name, mailing address and zip code, the date the lien was noted, the notation number, and the county in which the security interest was noted. The clerk shall obtain the information required by this subsection for notation upon the certificate of title from the title lien statement described in KRS 186A.195 to be provided to the county clerk by the secured party.
 - (7) For all the costs incurred in the notation and discharge of a security interest on the certificate of title, the county clerk shall receive the fee prescribed by KRS 64.012. The fee prescribed by this subsection shall be paid at the time of submittal of the title lien statement described in KRS 186A.195.
 - (8) A copy of the application, certified by the county clerk, indicating the lien will be noted on the certificate of title shall be forwarded to the lienholder.

Section 2. KRS 355.9-507 is amended to read as follows:

- (1) A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.
- (2) Except as otherwise provided in subsection (3) of this section and KRS 355.9-508, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under KRS 355.9-506.
- (3) If a debtor so changes its name that a filed financing statement becomes seriously misleading under KRS 355.9-506:
 - (a) The financing statement is effective to perfect a security interest in collateral acquired by the debtor before *the change*, or within four (4) months after *the debtor notifies the secured party in writing of* ~~the~~ the change; and
 - (b) The financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four (4) months after *the debtor notifies the secured party in writing of* the change, unless an

amendment to the financing statement which renders the financing statement not seriously misleading is filed within four (4) months after the change.

Section 3. This Act takes effect July 1, 2001.

Approved March 15, 2001

CHAPTER 66

(HJR 60)

A JOINT RESOLUTION naming "The Tom T. Hall Highway."

WHEREAS, a "troubadour" is defined as a lyric poet who composes songs in complex metrical form; and

WHEREAS, America's greatest troubadour is without argument the Commonwealth's native son Tom T. Hall; and

WHEREAS, Tom T. Hall is the son of Virgil and Della Hall, born May 25, 1936, in a log cabin behind his grandfather's house at Tick Ridge, seven miles from Olive Hill, Kentucky; and

WHEREAS, a poor but loving family sheltered Tom T. Hall as he began playing the guitar at the age of 4, began writing a novel at the age of 8, and composed his first song at the age of 9; and

WHEREAS, at the age of 13 Tom T. Hall's mother Della died of cancer and, at the age of 15 after his father was wounded in a hunting accident, Tom T. Hall dropped out of school to work in a garment factory to help support the family; and

WHEREAS, in his late teen years Tom T. Hall joined a local bluegrass band called "The Kentucky Travelers" and began working as a disc jockey at WMOR radio in Morehead, Kentucky; and

WHEREAS, after being stationed in Germany and serving a three year tour of duty in the United States Army, Tom T. Hall had earned his high school diploma, as well as continuing to compose music; and

WHEREAS, by 1964 Tom T. Hall moved to Nashville with \$46 and a guitar to fully embrace his destiny as "America's Storyteller"; and

WHEREAS, Tom T. Hall has penned hundreds of songs that have been recorded by Dave Dudley, Jimmy Newman, Johnny Wright, The Statler Brothers, Faron Young, Loretta Lynn, Johnny Cash, George Jones, Waylon Jennings, Bobby Bare, and dozens of other musical artists; and

WHEREAS, Tom T. Hall has a remarkable penchant for writing children's music which he released between 1974 and 1988; and

WHEREAS, Tom T. Hall is known nationally as the TV star of "Pop Goes the Country" for three consecutive seasons (1980-83), as well as the longtime commercial spokesperson for Tyson Chicken and Chevrolet trucks; and

WHEREAS, Tom T. Hall has been a guest on almost every variety and talk show and was a 1980 inductee into the hallowed Grand Old Opry cast; and

WHEREAS, country music legend George Jones calls Tom T. Hall "by far the greatest songwriter/storyteller that country music has ever had"; and

WHEREAS, it is perhaps Tom T. Hall's gentle, understanding treatment of the common man that sets his music apart and is the root of his professional success. He explains in detail events in this country and what the people of this country are experiencing in their daily lives without resorting to a preaching or condescending attitude -- his appeal spans the entire musical spectrum; and

WHEREAS, Tom T. Hall is a down-to-earth individual who is the consummate storyteller, poet, philosopher, and songwriter;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this honorable body, both individually and collectively, honor our extremely gifted native son and exemplary ambassador of the Commonwealth, Tom T. Hall.

Section 2. In recognition of Tom T. Hall's immeasurable contributions to the world of music, the Transportation Cabinet is directed to name United States Route 60 between Morehead, Kentucky and Olive Hill, Kentucky "The Tom T. Hall Highway."

Section 3. The Transportation Cabinet shall within thirty (30) days of the effective date of this Resolution erect signs that read "The Tom T. Hall Highway" on United States Route 60 between Morehead, Kentucky and Olive Hill, Kentucky.

Approved March 15, 2001

CHAPTER 67

(HB 209)

AN ACT relating to income taxes and declaring an emergency.

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

Section 1. KRS 141.010 is amended to read as follows:

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

- (1) "Secretary" means the secretary of revenue;
- (2) "Cabinet" means the Revenue Cabinet;
- (3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1999, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 1999, that would otherwise terminate, and as modified by KRS 141.0101;
- (4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;
- (5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;
- (6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;
- (7) "Individual" means a natural person;
- (8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;
- (9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;
- (10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:
 - (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;
 - (b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;
 - (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
 - (d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;
 - (e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

- (f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;
- (g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;
- (h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;
- (i)
 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.
 2. The "applicable amount" shall be:
 - a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars (\$6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;
 - b. Fifty percent (50%), but not more than twelve thousand five hundred dollars (\$12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;
 - c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars (\$18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and
 - d. One hundred percent (100%), but not more than thirty-five thousand dollars (\$35,000), for taxable years beginning after December 31, 1997.
 3. As used in this paragraph:
 - a. "Distributions" includes, but is not limited to, any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;
 - b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and
 - c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;
- (j)
 1.
 - a. Exclude the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and
 - b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.
 2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;
- (k) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health insurance which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;

- (l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;
 - (m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;
 - (n) Exclude any capital gains income attributable to property taken by eminent domain;
 - (o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;
 - (p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement; and
 - (q) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted~~[- from the 1998 to the 1999 calendar year as provided under Pub. L. No. 106-78, Title 8, sec. 803];~~
- (11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:
- (a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;
 - (b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);
 - (c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and
 - (d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;
- (12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:
- (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;
 - (b) Exclude all dividend income received after December 31, 1969;
 - (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
 - (d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

- (e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;
 - (f) Include the amount calculated under KRS 141.205;
 - (g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;
 - (h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);
 - (i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;
 - (j) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement; and
 - (k) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted ~~from the 1998 to the 1999 calendar year as provided under Pub. L. No. 106-78, Title 8, sec. 803~~;
- (13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:
- (a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;
 - (b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;
 - (c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;
 - (d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;
 - (e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and
 - (f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;
- (14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;
- (b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;
- (c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction;
- (d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue

Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and

- (e) "Taxable net income" in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code;
- (15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;
- (16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;
- (17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;
- (18) "Nonresident" means any individual not a resident of this state;
- (19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;
- (20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;
- (21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;
- (22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;
- (23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;
- (24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;
- (25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

Section 2. The provisions of this Act apply retroactively for taxable years beginning after December 31, 1999.

Section 3. Whereas the 2000 tax return is due April 15, 2001, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved March 15, 2001

CHAPTER 68

(HB 201)

AN ACT relating to sales and use tax and declaring an emergency.

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

Section 1. KRS 139.170 is amended to read as follows:

- (1) "Machinery for new and expanded industry" means machinery:
 - (a) Used directly in ~~a~~~~the~~ manufacturing or processing production process;~~;~~~~;~~
 - (b) Which is incorporated for the first time into ~~a~~ plant ~~facility~~~~facilities~~ established in this state;~~;~~~~;~~ and
 - (c) Which does not replace machinery in the ~~plant facility unless~~~~plants, or~~ that machinery purchased to replace existing machinery;

1. ~~Increases~~~~[which will increase]~~ the consumption of recycled materials at ~~the plant~~~~[a]~~ facility by not less than ten percent (10%);
2. *Performs different functions;*
3. *Is used to manufacture a different product; or*
4. *Has a greater productive capacity, as measured in units of production, than the machinery being replaced.*

The term "machinery for new and expanded industry" does not include repair, replacement, or spare parts of any kind regardless of whether the purchase of repair, replacement, or spare parts is required by the manufacturer or vendor as a condition of sale or as a condition of warranty. The term "processing production" shall include~~[.]~~ the processing and packaging of raw materials, in-process materials, and finished products; the processing and packaging of farm and dairy products for sale; and the extraction of minerals, ores, coal, clay, stone, and natural gas.

- (2) *"Manufacturing" for the purposes of this section only means any process through which material having little or no commercial value for its intended use before processing has appreciable commercial value for its intended use after processing by the machinery. The manufacturing or processing production process commences with the movement of raw materials from storage into a continuous, unbroken, integrated process and ends when the product being manufactured is packaged and ready for sale.*
- (3) *"Plant facility" means a single location that is exclusively dedicated to manufacturing or processing production activities. For purposes of this section, a location shall be deemed to be exclusively dedicated to manufacturing activities even if retail sales are made there, provided that the retail sales are incidental to the manufacturing activities occurring at the location. The term "plant facility" shall not include any restaurant, grocery store, shopping center, or other retail establishment.*~~[For the purposes of this section, the term:]~~
- ~~(4)(a)]~~ "Repair, replacement, or spare parts" means any tangible personal property used to maintain, restore, mend, or repair machinery or equipment. "Repair, replacement, or spare parts" does not include machine oils, grease, or industrial tools.
- ~~(5)(b)]~~ "Recycled materials" means materials which have been recovered or diverted from the solid waste stream and reused or returned to use in the form of raw materials or products.

Section 2. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

- (1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property the gross receipts from the sale of which, or the storage, use, or other consumption of which, this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;
- (2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:
 - (a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and
 - (b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

- (3) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property used for the performance of a lump-sum, fixed-fee contract of public works executed prior to February 5, 1960;
- (4) Gross receipts from occasional sales of tangible personal property and the storage, use, or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;
- (5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight

charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

- (6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the cabinet. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;
- (7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of property or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;
- (8)
 - (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include, but not be limited to, natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the Revenue Cabinet;
 - (b) In making the determinations of eligibility, the cabinet shall exempt from taxation all gross receipts derived from sales:
 1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;
 2. Classified as "residential" by a municipally-owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;
 3. Classified as "residential" by the governing body of a municipally-owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.

If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;
 - (c) The exemption shall not apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and
 - (d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years;
- (9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telephone bill;
- (10) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the seller and the seller maintains a file of the proof;
- (11) Gross receipts derived from the sale of, and the storage, use, or other consumption in this state of, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property *at a plant facility and* which will be for sale are not subject to the sales or use tax. The property shall be regarded as having been purchased for resale. ***"Plant facility" shall have the same meaning as defined in subsection (3) of Section 1 of this Act.*** For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

- (a) Industrial processing includes refining, extraction of petroleum and natural gas, mining, quarrying, fabricating, and industrial assembling. As defined herein, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale shall mean:
 - 1. Materials which enter into and become an ingredient or component part of the manufactured product.
 - 2. Other tangible personal property which is directly used in manufacturing or industrial processing, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:
 - a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below.
 - b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, explosives, etc. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind.
 - c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, spray guns, etc., and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, cutting blades, etc. Normally, for industrial tools to be considered directly used in manufacturing, they shall come into direct contact with the product being manufactured.
 - 3. Materials and supplies that are not reusable in the same manufacturing process at the completion of a single manufacturing cycle, excluding repair, replacement, or spare parts of any kind. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.
- (b) It shall be noted that in none of the three (3) categories is any exemption provided for repair, replacement, or spare parts. Repair, replacement, or spare parts shall not be considered to be materials, supplies, or industrial tools directly used in manufacturing or industrial processing. "Repair, replacement, or spare parts" shall have the same meaning as set forth in KRS 139.170;
- (12) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority;
- (13) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage, use, or other consumption outside this state and delivered by the seller's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the buyer or seller or an agent or representative of the buyer or seller, or whether the F.O.B. is seller's shipping point or buyer's destination.
 - (a) As used in this subsection:
 - 1. "Catalogs" means tangible personal property that is printed to the special order of the purchaser and composed substantially of information regarding goods and services offered for sale; and
 - 2. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.
 - (b) The seller shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the cabinet;
- (14) Gross receipts from the sale of water used in the raising of equine as a business; and
- (15) Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the seller's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the buyer or seller or an agent or representative of the buyer or seller, or whether the F.O.B. is seller's shipping point or buyer's destination.

- (a) As used in this subsection, "metal retail fixtures" means check stands and belted and nonbelted checkout counters, whether made in bulk or pursuant to specific customer specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.
- (b) The seller shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the cabinet.

Section 3. No claim for refund or credit of a sales or use tax overpayment based on the exemption for machinery for new and expanded industry provided in KRS 139.480, made by an amended return or any other method after September 28, 2000, shall be effective or recognized for any purpose unless the machinery for which the exemption is claimed was incorporated into a plant facility as defined in subsection (3) of Section 1 of this Act. The provisions of this Act shall apply retroactively to September 28, 2000.

Section 4. Whereas the clarification of the sales tax exemption for new and expanded industry is critical to the finances of the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Approved March 15, 2001

CHAPTER 69

(HB 16)

AN ACT relating to adoption of children.

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

Section 1. KRS 199.011 is amended to read as follows:

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

- (1) "Secretary" means the secretary for families and children;
- (2) "Cabinet" means the Cabinet for Families and Children;
- (3) "Department" means the Department for Community Based Services;
- (4) "Child" means any person who has not reached his eighteenth birthday;
- (5) "Adult adopted person" means any adopted person who is twenty-one (21) years of age or older;
- (6) "Child-caring facility" means any institution or group home, including institutions and group homes that are publicly operated, providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption, or marriage to the person maintaining the facility, other than an institution or group home certified by an appropriate agency as operated primarily for educational or medical purposes, or a residential program operated or contracted by the Department of Juvenile Justice that maintains accreditation, or obtains accreditation within two (2) years of opening from a nationally recognized accrediting organization;
- (7) "Child-placing agency" means any agency licensed by the cabinet which supervises the placement of children in foster family homes or child-caring facilities, or which places children for adoption;
- (8) "Adoption worker" means an employee of the cabinet so designated by the secretary for families and children, a social worker employed by a county or city who has been approved by the cabinet to handle, under its supervision, adoption placement services to children, or a social worker employed by or under contract to a child-placing adoption agency;
- (9) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or of a licensed child-placing agency;
- (10) "Group home" means a homelike facility, excluding Department of Juvenile Justice operated or contracted facilities, for not more than eight (8) foster children, not adjacent to or part of an institutional campus, operated by a sponsoring agency for children who may participate in community activities and use community resources;
- (11) "Institution" means a child-caring facility providing care or maintenance for nine (9) or more children;

- (12) "Family rehabilitation home" means a child-caring facility for appropriate families and comprising not more than twelve (12) children and two (2) staff persons;
- (13) "Placement services" means those social services customarily provided by a licensed child-placing or a public agency which are necessary for the arrangement and placement of children in foster family homes, child-placing facilities, or adoptive homes. Placement services are provided through a licensed child-placing or a public agency for children who cannot be cared for by their biological parents and who need and can benefit from new and permanent family ties established through legal adoption. Licensed child-placing agencies and public agencies have a responsibility to act in the best interests of children, biological parents, and adoptive parents by providing social services to all the parties involved in an adoption; and
- (14) "Voluntary and informed consent" means that at the time of the execution of the consent the consenting person was fully informed of the legal effect of the consent, that the consenting person was not given or promised anything of value except those expenses allowable under KRS 199.590(6), that the consenting person was not coerced in any way to execute the consent, and that the consent was voluntarily and knowingly given. If at the time of the execution of the consent the consenting person was represented by independent legal counsel, there shall be a presumption that the consent was voluntary and informed.~~[In the event the person was not represented by independent legal counsel,]~~ The consent shall be in writing, signed and sworn to by the consenting person and include the following:
- (a) Date, time, and place of the execution of the consent;
 - (b) Name of the child, if any, to be adopted and the date and place of the child's birth;
 - (c) Consenting person's relationship to the child;
 - (d) Identity of the proposed adoptive parents or a statement that the consenting person does not desire to know the identification of the proposed adoptive parents;
 - (e) A statement that the consenting person understands that the consent will be final and irrevocable ***under this paragraph unless withdrawn under this paragraph.***
 1. ***If placement approval by the secretary is required, the voluntary and informed consent shall become final and irrevocable twenty (20) days after the later of the placement approval or the execution of the voluntary and informed consent. This consent may be withdrawn only by written notification sent to the proposed adoptive parent or the attorney for the proposed adoptive parent on or before the twentieth day by certified or registered mail and also by first class mail.***
 2. ***If placement approval by the secretary is not required, the voluntary and informed consent shall become final and irrevocable twenty (20) days after the execution of the voluntary and informed consent. This consent may be withdrawn only by written notification sent to the proposed adoptive parent or the attorney for the proposed adoptive parent on or before the twentieth day by certified or registered mail and also by first class mail***~~[twenty (20) days after the execution of the consent if the placement was previously approved, if approval of the placement is required];~~
 - (f) Disposition of the child if the adoption is not adjudged;
 - (g) A statement that the consenting person has received a completed and signed copy of the consent at the time of the execution of the consent;
 - (h)~~[A statement that the consenting person understands that the consent may only be withdrawn by written notification sent by certified or registered mail addressed to either the attorney for the consenting person or to the attorney for the adoptive parents, within thirty (30) days following the execution of the consent;~~
 - ~~(i)~~ Name and address of the person who prepared the consent, name and address of the person who reviewed and explained the consent to the consenting person, and a verified statement from the consenting person that the consent has been reviewed with and fully explained to the consenting person; and
 - ~~(i)~~~~(j)~~ Total amount of the consenting person's legal fees, if any, for any purpose related to the execution of the consent and the source of payment of the legal fees.

Section 2. KRS 199.500 is amended to read as follows:

- (1) An adoption shall not be granted without the voluntary and informed consent, *as defined in Section 1 of this Act*, of the living parent or parents of a child born in lawful wedlock or the mother of the child born out of wedlock, or the father of the child born out of wedlock if paternity is established in a legal action or if an affidavit is filed stating that the affiant is the father of the child, except that the consent of the living parent or parents shall not be required if:
 - (a) The parent or parents have been adjudged mentally disabled and the judgment shall have been in effect for not less than one (1) year prior to the filing of the petition for adoption;
 - (b) The parental rights of the parents have been terminated under KRS Chapter 625;
 - (c) The living parents are divorced and the parental rights of one (1) parent have been terminated under KRS Chapter 625 and consent has been given by the parent having custody and control of the child; or
 - (d) The biological parent has not established parental rights as required by KRS 625.065.
- (2) A minor parent who is a party defendant may consent to an adoption but a guardian ad litem for the parent shall be appointed.
- (3) In the case of a child twelve (12) years of age or older, the consent of the child shall be given in court. The court in its discretion may waive this requirement.
- (4) Notwithstanding the provisions of subsection (1) of this section, an adoption may be granted without the consent of the biological living parents of a child if it is pleaded and proved as a part of the adoption proceedings that any of the provisions of KRS 625.090 exist with respect to the child.
- (5) An adoption shall not be granted or a consent for adoption be held valid if the consent for adoption is given prior to seventy-two (72) hours after the birth of the child. A voluntary and informed consent may be taken at seventy-two (72) hours after the birth of the child and shall become final and irrevocable *under paragraphs (a) and (b) of this subsection*.
 - (a) *If placement approval by the secretary is required, the voluntary and informed consent shall become final and irrevocable twenty (20) days after the later of the placement approval or the execution of the voluntary and informed consent.*
 - (b) *If placement approval by the secretary is not required, the voluntary and informed consent shall become final and irrevocable twenty (20) days after the execution of the voluntary and informed consent*~~[twenty (20) days after either the interstate or the intrastate placement approval by the secretary of the Cabinet for Families and Children, or twenty (20) days after the execution of the consent if placement approval was given prior to the signing of the consent, if approval is required].~~

Approved March 15, 2001

CHAPTER 70

(HB 97)

AN ACT relating to the Personnel Cabinet, and declaring an emergency.

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

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
 2. Lieutenant Governor.
 3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
 4. Department of Law.
 - (a) Attorney General.
 5. Department of the Treasury.
 - (a) Treasurer.
 6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
 7. Superintendent of Public Instruction.
 8. Auditor of Public Accounts.
- II. Program cabinets headed by appointed officers:
1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
 2. Education, Arts, and Humanities Cabinet:
 - (a) Department of Education.
 - (1) Kentucky Board of Education.
 - (2) Education Professional Standards Board.
 - (b) Department for Libraries and Archives.
 - (c) Kentucky Arts Council.
 - (d) Kentucky Educational Television.
 - (e) Kentucky Historical Society.
 - (f) Kentucky Teachers' Retirement System Board of Trustees.
 - (g) Kentucky Center for the Arts.

- (h) Kentucky Craft Marketing Program.
 - (i) Kentucky Commission on the Deaf and Hard of Hearing.
 - (j) Governor's Scholars Program.
 - (k) Governor's School for the Arts.
 - (l) Operations and Development Office.
 - (m) Kentucky Heritage Council.
 - (n) Kentucky African-American Heritage Commission.
 - (o) Board of Directors for the Center for School Safety.
3. Natural Resources and Environmental Protection Cabinet:
- (a) Environmental Quality Commission.
 - (b) Kentucky Nature Preserves Commission.
 - (c) Department for Environmental Protection.
 - (d) Department for Natural Resources.
 - (e) Department for Surface Mining Reclamation and Enforcement.
 - (f) Office of Legal Services.
 - (g) Office of Information Services.
 - (h) Office of Inspector General.
4. Transportation Cabinet:
- (a) Department of Highways.
 - 1. Office of Program Planning and Management.
 - 2. Office of Project Development.
 - 3. Office of Construction and Operations.
 - 4. Office of Intermodal Programs.
 - 5. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Fiscal Management.
 - (e) Department of Rural and Municipal Aid.
 - (f) Department of Human Resources Management.
 - (g) Office of the Secretary.
 - (h) Office of General Counsel and Legislative Affairs.
 - (i) Office of Public Affairs.
 - (j) Office of Transportation Delivery.
 - (k) Office of Minority Affairs.
 - (l) Office of Policy and Budget.
5. Cabinet for Economic Development:
- (a) Department of Administration and Support.
 - (b) Department for Business Development.

- (c) Department of Financial Incentives.
 - (d) Department of Community Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
- (a) Public Service Commission.
 - (b) Department of Insurance.
 - (c) Department of Housing, Buildings and Construction.
 - (d) Department of Financial Institutions.
 - (e) Department of Mines and Minerals.
 - (f) Department of Public Advocacy.
 - (g) Department of Alcoholic Beverage Control.
 - (h) Kentucky Racing Commission.
 - (i) Board of Claims.
 - (j) Crime Victims Compensation Board.
 - (k) Kentucky Board of Tax Appeals.
 - (l) Backside Improvement Commission.
 - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
 - (n) Department of Charitable Gaming.
7. Cabinet for Families and Children:
- (a) Department for Community Based Services.
 - (b) Department for Disability Determination Services.
 - (c) Public Assistance Appeals Board.
 - (d) Office of the Secretary.
 - (1) Kentucky Commission on Community Volunteerism and Service.
 - (e) Office of the General Counsel.
 - (f) Office of Program Support.
 - (g) Office of Family Resource and Youth Services Centers.
 - (h) Office of Technology Services.
 - (i) Office of the Ombudsman.
 - (j) Office of Performance Enhancement.
8. Cabinet for Health Services.
- (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission on Children with Special Health Care Needs.
 - (e) Office of Certificate of Need.
 - (f) Office of the Secretary.

- (g) Office of the General Counsel.
 - (h) Office of Program Support.
 - (i) Office of the Inspector General.
 - (j) Office of Aging Services.
9. Finance and Administration Cabinet:
- (a) Office of Legal and Legislative Services.
 - (b) Office of Management and Budget.
 - (c) Office of Financial Management.
 - (d) Office of the Controller.
 - (e) Department for Administration.
 - (f) Department of Facilities Management.
 - (g) State Property and Buildings Commission.
 - (h) Kentucky Pollution Abatement Authority.
 - (i) Kentucky Savings Bond Authority.
 - (j) Deferred Compensation Systems.
 - (k) Office of Equal Employment Opportunity Contract Compliance.
 - (l) Office of Capital Plaza Operations.
 - (m) County Officials Compensation Board.
 - (n) Kentucky Employees Retirement Systems.
 - (o) Commonwealth Credit Union.
 - (p) State Investment Commission.
 - (q) Kentucky Housing Corporation.
 - (r) Governmental Services Center.
 - (s) Kentucky Local Correctional Facilities Construction Authority.
 - (t) Kentucky Turnpike Authority.
 - (u) Historic Properties Advisory Commission.
 - (v) Kentucky Kare Health Insurance Authority.
 - (w) Kentucky Tobacco Settlement Trust Corporation.
10. Labor Cabinet:
- (a) Department of Workplace Standards.
 - (b) Department of Workers' Claims.
 - (c) Kentucky Labor-Management Advisory Council.
 - (d) Occupational Safety and Health Standards Board.
 - (e) Prevailing Wage Review Board.
 - (f) Workers' Compensation Board.
 - (g) Kentucky Employees Insurance Association.
 - (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.

- (j) Kentucky Occupational Safety and Health Review Commission.
 - (k) Office of Administrative Services.
 - (l) Office of Labor-Management Relations and Mediation.
 - (m) Office of General Counsel.
 - (n) Workers' Compensation Funding Commission.
 - (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
 - (b) Department of Tax Administration.
 - (c) Office of Financial and Administrative Services.
 - (d) Department of Law.
 - (e) Department of Information Technology.
 - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
- (a) Department of Travel.
 - (b) Department of Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (d) Kentucky Horse Park Commission.
 - (e) State Fair Board.
 - (f) Office of Administrative Services.
 - (g) Office of General Counsel.
13. Cabinet for Workforce Development:
- (a) Department for Adult Education and Literacy.
 - (b) Department for Technical Education.
 - (c) Department of Vocational Rehabilitation.
 - (d) Department for the Blind.
 - (e) Department for Employment Services.
 - (f) State Board for Adult and Technical Education.
 - (g) The State Board for Proprietary Education.
 - (h) The Foundation for Adult Education.
 - (i) Office of Training and Reemployment.
 - (j) Office of General Counsel.
 - (k) Office of Communication Services.
 - (l) Office of Development and Industry Relations.
 - (m) Office of Workforce Analysis and Research.
 - (n) Office for Administrative Services.
 - (o) Office for Policy and Budget.
 - (p) Office of Personnel Services.

(q) Unemployment Insurance Commission.

14. Personnel Cabinet:

- (a) Office of Administrative and Legal Services.
- (b) Department for Personnel Administration.
- (c) Department for Employee Relations.
- (d) Kentucky Public Employees Deferred Compensation Authority.
- (e) Kentucky Kare.
- (f) Division of Performance Management.
- (g) Division of Employee Records.
- (h) Division of Staffing Services.
- (i) Division of Classification and Compensation.
- (j) Division of Employee Benefits.
- (k) Division of Communications and Recognition.
- (l) ***Office of Public Employee Health Insurance.***

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Council on Postsecondary Education.
- 3. Department for Local Government.
- 4. Kentucky Commission on Human Rights.
- 5. Kentucky Commission on Women.
- 6. Department of Veterans' Affairs.
- 7. Kentucky Commission on Military Affairs.
- 8. The Governor's Office for Technology.
- 9. Commission on Small Business Advocacy.

Section 2. KRS 18A.025 is amended to read as follows:

- (1) The Governor shall appoint the secretary of personnel as provided in KRS 18A.015, who shall be considered an employee of the state. He shall be a graduate of an accredited college or university and have at least five (5) years' experience in personnel administration or in related fields, have known sympathies with the merit principle in government and shall be dedicated to the preservation of this principle. Additional education may be substituted for the required experience and additional experience may be substituted for the required education.
- (2) The secretary of the Personnel Cabinet or his designee, shall be responsible for the coordination of the state's affirmative action plan, established by KRS 18A.138.
- (3) There is established within the Personnel Cabinet the following offices and departments, each of which shall be headed by a commissioner appointed by the secretary, subject to the prior approval of the Governor, pursuant to KRS 12.050, except that the Kentucky Employees Deferred Compensation Authority shall be headed by an executive director who shall be appointed by the authority's board of directors:
 - (a) Office of the Secretary, composed of the:
 - 1. Office of Administrative and Legal Services, which shall:
 - a. Provide all administrative information systems management, and legal services to the Cabinet; and

- b. Coordinate the state's affirmative action plan established in KRS 18A.138; *and*
- 2. Kentucky Public Employees Deferred Compensation Authority which shall be attached to the Office of the secretary for administrative purposes only. The authority shall be governed by a board of trustees composed of seven (7) members including the secretary of Finance and Administration, ex officio; the secretary of Personnel, ex officio; the state controller, ex officio; and four (4) at large members appointed by the Governor, one (1) of whom shall have at least five (5) years of investment or banking experience and one (1) of whom shall represent a nonstate employer. The authority shall be headed by an executive director who shall be appointed by the board of directors of the authority without the limitations imposed by KRS 12.040 and KRS Chapter 18A; ~~and~~
- ~~3. — Kentucky Kare;~~
- (b) Department for Personnel Administration, composed of the:
 - 1. Division of Performance Management, which shall coordinate and implement the employee performance evaluation systems throughout state government;
 - 2. Division of Employee Records, which shall:
 - a. Maintain the central personnel files mandated by KRS 18A.020;
 - b. Process personnel documents and position actions;
 - c. Operate and maintain a uniform payroll system;
 - d. Implement lay-off plans mandated by KRS 18A.113 to KRS 18A.1132;
 - e. Certify payrolls as required by KRS 18A.125; and
 - f. Monitor and assist state agencies in complying with the provisions of the Federal Fair Labor Standards Act (FLSA);
 - 3. Division of Staffing Services, which shall:
 - a. Operate a centralized applicant and employee counseling program;
 - b. Operate the examination program for State employment;
 - c. Prepare registers of candidate employment;
 - d. Coordinate outreach programs, such as recruitment and the Administrative Intern Program; and
 - e. Construct merit examinations; and
 - 4. Division of Classification and Compensation, which shall:
 - a. Maintain plans of classification and compensation for the State Service; and
 - b. Review and evaluate the plans; ~~and~~
- (c) Department for Employee Relations, composed of the:
 - 1. Division of Employee Benefits, which shall be responsible for administering and assisting state employees with the following benefits and programs:
 - a. Workers' Compensation (KRS 18A.375);
 - b. Life Insurance (KRS 18A.205 to KRS 18A.220);
 - c. ~~Health Insurance (KRS 18A.225);~~
 - d. ~~Flexible Benefit Plan (KRS 18A.227);~~
 - e. ~~Sick leave Sharing Program (KRS 18A.197);~~
 - d. ~~f. Annual Leave Sharing Program;~~
 - e. ~~g. Health and Safety Programs (OSHA); and~~

- ~~f. [h.]~~ Assessment and referral services provided to state employees;
- 2. Division of Communications and Recognition, which shall:
 - a. Communicate with state employees about personnel issues and other relevant issues through publications;
 - b. Administer the employee incentive programs established by KRS 18A.202; and
 - c. Provide dispute resolution assistance to state employees and agencies; *and*
- (d) *Office of Public Employee Health Insurance, which shall be composed of the:*
 - 1. *Health Insurance Program (KRS 18A.225); and*
 - 2. *Flexible Benefit Plan (KRS 18A.227).*
- (4) The cabinet shall include principal assistants appointed by the secretary, pursuant to KRS 12.050, as necessary for the development and implementation of policy. The secretary may employ, pursuant to the provisions of this chapter, personnel necessary to execute the functions and duties of the department.

Section 3. KRS 18A.225 is amended to read as follows:

- (1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and
- (b) The term "state employee" for purposes of this section shall include a person, including an elected public official, who is regularly employed by any department, board, agency, branch of state government, or any municipal, urban-county, charter county, or county government, whose legislative body has opted to participate in the state health insurance program pursuant to KRS 79.080 and who is a contributing member to any one (1) of the retirement systems administered by the state. It shall also include a person who must fulfill the requirements established by the Kentucky Board of Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems and includes members of the Legislators' Retirement Plan as provided in KRS 18A.2287. It shall also include a person who is a present or future recipient of a retirement allowance from the Teachers' Retirement System of Kentucky who either satisfies the requirements of KRS 161.525, 161.620, and 161.675 or who is board certified, including a beneficiary of a retired member who is receiving a retirement allowance from the Teachers' Retirement System of Kentucky, except that a member who is receiving a retirement allowance from the Teachers' Retirement System and who is age sixty-five (65) or older shall not be included.
- (2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health care coverage including, but not limited to, indemnity, health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of state employees. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994. All state employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the state or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment. *For calendar year 2001*

only, an emergency shall exist when any county in which only one (1) health insurance company offers a single plan to state employees and, subsequent to the open enrollment period, the health insurance company fails to maintain at least sixty-five percent (65%) of its contracts within the geographic region with specialty physicians who were participating in the network at the time of open enrollment. The Finance and Administration Cabinet shall immediately notify the Governor, the Legislative Research Commission, and the secretary of the Personnel Cabinet and shall be authorized to immediately negotiate and contract with additional health insurance companies for additional plans to serve any county without meeting the requirements of the Model Procurement Code under KRS Chapter 45.

- (b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws.
 - (c) Any carrier bidding to offer health care coverage to members of the state group shall agree to provide coverage to all members of the state group, including both active employees and retirees within the county or counties specified in its bid. Furthermore, any carrier bidding to offer health care coverage to members of the state group shall also agree to rate all such members of the state group as a single entity, except for those retirees whose former employers insure their active employees outside the state health insurance program.
 - (d) Any carrier bidding to offer health care coverage to any member of the state group shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance of data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual member; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.
 - (e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall provide to the General Assembly in June of each year an analysis of enrollment, claims, utilization data of all carriers for the prior plan year ending December 31, and on the financial stability of the program. The report shall include, but not be limited to, loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, paid dependent coverage, and statutorily required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including, but not limited to, loss ratios, reserves, and reinsurance agreements.
 - (f) If any agency participating in the state employee health insurance program for its active members terminates participation in the state employee health insurance program for its active members and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, neither the agency nor the employees shall receive the state-funded contribution after termination from the state employee health insurance program.
 - (g) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state health insurance plan's appropriation account.
- (3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, may procure from one (1) or more dental insurance companies, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under Subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended

that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

- (4) The premiums may be paid by the policyholder:
 - (a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;
 - (b) Wholly from funds contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government; or
 - (c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government for any other health care coverage shall be paid by the employee.
- (5) If an employee moves his place of residence or employment out of the service area of a managed health care plan or of a prepaid dental plan, under which he has elected coverage, into either the service area of another managed health care plan or prepaid dental plan or into an area of the state not within a managed health care plan service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health care plan or dental plan.
- (6) No payment of premium by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall be considered a proper cost of administration.
- (7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and other provisions the commissioner of insurance may approve.
- (8) The policy or policies shall contain the provision that employees or retired employees shall be allowed to change health care plans during the reopening period without any limitation for pre-existing conditions if the employee has met the pre-existing condition limitation upon initial employment or reemployment with the group.
- (9) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining health care coverage and dental coverage under the provisions of this section.
- (10) Group rates under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.
- (11) The health care contract or contracts for state employees shall be entered into for a period of not less than one (1) year.
- (12) The secretary shall appoint twenty-eight (28) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state health insurance program for state employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.

- (13) Notwithstanding any other provision of law to the contrary, the policy or policies provided to state employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of state employees or their dependents.
- (14) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Personnel Cabinet, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.

Section 4. The General Assembly confirms Executive Order 2000-1316, dated October 4, 2000, to the extent that it is not otherwise confirmed or superseded by this Act.

Section 5. Whereas thousands of citizens of this Commonwealth have lost access to medical care because of contractual issues, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved March 15, 2001

CHAPTER 71

(HB 343)

AN ACT relating to training of county officials.

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

Section 1. KRS 64.5275 is amended to read as follows:

- (1) The General Assembly of the Commonwealth of Kentucky hereby finds and determines that county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs in all counties are officers whose duties or jurisdictions are coextensive with that of the Commonwealth within the meaning of Section 246 of the Constitution of Kentucky.
- (2) Effective on the first Monday in January of 1999, the maximum salary of county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs shall be fixed by the Department for Local Government according to a salary schedule in accordance with Section 246 of the Kentucky Constitution. The salary schedule provides that these officials, as officers whose jurisdiction or duties are coextensive with the Commonwealth, shall be paid at a rate no greater than twelve thousand dollars (\$12,000) per annum as adjusted for any increase or decrease in the consumer price index and as described in subsection (4) of this section.
- (3) The salary schedule for county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs in all counties provides for nine (9) levels of salary based upon the population of the county in the year prior to the election of county officials as determined by the United States Department of Commerce, Bureau of the Census's annual estimates. To implement the salary schedule, the Department for Local Government shall, by November 1 of each year preceding the election of county officials, certify for each county the population group applicable to each county based on the most recent estimates of the United States Department of Commerce, Bureau of the Census. For the purposes of this section, the salary schedule for county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs shall remain as determined by the Department for Local Government pursuant to this section, regardless of changes in the population estimates or the actual census count that may occur during the term for which the official has been elected or appointed. The salary schedule provides four (4) steps for yearly increments within each population group. County officers named in this section shall be paid according to the first step within their population group for the first year or portion thereof they serve in office. Thereafter, each officer, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. Prior to assuming office on the first Monday in January, 1999, or thereafter, any person assuming any of the offices for which the salary is determined by this section must certify to the commissioner of the Department for Local Government the total number of years, not to exceed four (4) years, that the person has previously served in the office. The department shall place the officer in the proper step based upon a formula of one (1) incremental step per full calendar year of service:

SALARY SCHEDULE

County Population by Group	Steps and Salary for Affected Officers			
Group I	Step 1	Step 2	Step 3	Step 4
0-4,999	\$ 6,600	\$ 6,800	\$ 7,000	\$ 7,200
Group II				
5,000-9,999	7,200	7,400	7,600	7,800
Group III				
10,000-19,999	7,800	8,000	8,200	8,400
Group IV				
20,000-29,999	8,100	8,400	8,700	9,000
Group V				
30,000-44,999	8,700	9,000	9,300	9,600
Group VI				
45,000-59,999	9,000	9,400	9,800	10,200
Group VII				
60,000-89,999	9,600	10,000	10,400	10,800
Group VIII				
90,000-499,999	9,900	10,400	10,900	11,400
Group IX				
500,000 and up	10,500	11,000	11,500	12,000

- (4) Upon publication of the annual consumer price index by the United States Department of Commerce, the Department for Local Government shall fix the salary of the county judge/executive, county clerk, jailer who operates a full service jail, and sheriff at an annual rate of salary to which the county official is entitled pursuant to the increase in the Consumer Price Index and the salary schedule contained in this section. This salary determination shall be retroactive to the preceding January 1.
- (5) Notwithstanding any provision contained in this section, no county official holding office on July 15, 1998, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on July 15, 1998.
- (6) In addition to the step increases based on service in office, each officer shall be paid an **annual incentive** ~~[increase]~~ of one hundred dollars (\$100) **per calendar year** for each forty (40) hour training unit successfully completed, **based on continuing service in that office and, except as provided in this subsection, completion of at least forty (40) hours of approved training in each subsequent calendar year. If an officer fails, without good cause as determined by the commissioner of the Department for Local Government, to obtain the minimum amount of approved training in any year, the officer shall lose all training incentives previously accumulated.** Each training unit shall be approved and certified by the Department for Local Government. **No officer shall receive more than one (1) training unit per calendar year nor more than four (4) incentive payments per calendar year. Each officer shall be allowed to carry forward up to forty (40) hours of training credit into the following calendar year for the purpose of satisfying the minimum amount of training for that year. Each annual incentive payment shall be adjusted by the Department for Local Government on an annual basis for any increase or decrease in the consumer price index in the same manner as salaries are adjusted as described in subsection (4) of this section. The Department for Local Government shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish guidelines for the approval and certification of training units** ~~[Each unit shall be available to officials in each office based on continuing service in that office].~~

- (7) Except in counties that contain an urban-county form of government, justices of the peace who serve on fiscal courts and county commissioners shall also be eligible for the training *incentive payments in accordance with subsection (6) of this section* ~~and resulting one hundred dollars (\$100) per forty (40) hour unit increase~~.

Approved March 15, 2001

CHAPTER 72

(HB 324)

AN ACT relating to the Court of Justice.

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

Section 1. KRS 23A.020 is amended to read as follows:

The state is divided into judicial circuits, each to be composed of the following counties:

- (1) First Judicial Circuit. Ballard, Carlisle, Fulton, and Hickman.
- (2) Second Judicial Circuit. McCracken.
- (3) Third Judicial Circuit. Christian.
- (4) Fourth Judicial Circuit. Hopkins.
- (5) Fifth Judicial Circuit. Crittenden, Union, and Webster.
- (6) Sixth Judicial Circuit. Daviess.
- (7) Seventh Judicial Circuit. Logan and Todd.
- (8) Eighth Judicial Circuit. Warren.
- (9) Ninth Judicial Circuit. Hardin.
- (10) Tenth Judicial Circuit. Hart, Larue, and Nelson.
- (11) Eleventh Judicial Circuit. Green, Marion, Taylor, and Washington.
- (12) Twelfth Judicial Circuit. Henry, Oldham, and Trimble.
- (13) Thirteenth Judicial Circuit. Garrard and Jessamine.
- (14) Fourteenth Judicial Circuit. Bourbon, Scott, and Woodford.
- (15) Fifteenth Judicial Circuit. Carroll, Grant, and Owen.
- (16) Sixteenth Judicial Circuit. Kenton.
- (17) Seventeenth Judicial Circuit. Campbell.
- (18) Eighteenth Judicial Circuit. Harrison, Nicholas, Pendleton, and Robertson.
- (19) Nineteenth Judicial Circuit. Bracken, Fleming, and Mason.
- (20) Twentieth Judicial Circuit. Greenup and Lewis.
- (21) Twenty-first Judicial Circuit. Bath, Menifee, Montgomery, and Rowan.
- (22) Twenty-second Judicial Circuit. Fayette.
- (23) Twenty-third Judicial Circuit. Estill, Lee, and Owsley.
- (24) Twenty-fourth Judicial Circuit. Lawrence, Johnson, and Martin.
- (25) Twenty-fifth Judicial Circuit. Clark and Madison.
- (26) Twenty-sixth Judicial Circuit. Harlan.
- (27) Twenty-seventh Judicial Circuit. Knox and Laurel.
- (28) Twenty-eighth Judicial Circuit. Lincoln, Pulaski, and Rockcastle.

- (29) Twenty-ninth Judicial Circuit. Adair ~~and~~ Casey, ~~Cumberland, and Monroe~~.
- (30) Thirtieth Judicial Circuit. Jefferson.
- (31) Thirty-first Judicial Circuit. Floyd.
- (32) Thirty-second Judicial Circuit. Boyd.
- (33) Thirty-third Judicial Circuit. Perry.
- (34) Thirty-fourth Judicial Circuit. Whitley and McCreary.
- (35) Thirty-fifth Judicial Circuit. Pike.
- (36) Thirty-sixth Judicial Circuit. Magoffin and Knott.
- (37) Thirty-seventh Judicial Circuit. Carter, Elliott, and Morgan.
- (38) Thirty-eighth Judicial Circuit. Butler, Edmonson, Ohio, and Hancock.
- (39) Thirty-ninth Judicial Circuit. Breathitt, Wolfe, and Powell.
- (40) Fortieth Judicial Circuit. Clinton, **Cumberland, and Monroe** ~~[Russell, and Wayne]~~.
- (41) Forty-first Judicial Circuit. Clay, Jackson, and Leslie.
- (42) Forty-second Judicial Circuit. Calloway and Marshall.
- (43) Forty-third Judicial Circuit. Barren and Metcalfe.
- (44) Forty-fourth Judicial Circuit. Bell.
- (45) Forty-fifth Judicial Circuit. Muhlenberg and McLean.
- (46) Forty-sixth Judicial Circuit. Breckinridge, Grayson, and Meade.
- (47) Forty-seventh Judicial Circuit. Letcher.
- (48) Forty-eighth Judicial Circuit. Franklin.
- (49) Forty-ninth Judicial Circuit. Allen and Simpson.
- (50) Fiftieth Judicial Circuit. Boyle and Mercer.
- (51) Fifty-first Judicial Circuit. Henderson.
- (52) Fifty-second Judicial Circuit. Graves.
- (53) Fifty-third Judicial Circuit. Shelby, Anderson, and Spencer.
- (54) Fifty-fourth Judicial Circuit. Boone and Gallatin.
- (55) Fifty-fifth Judicial Circuit. Bullitt.
- (56) Fifty-sixth Judicial Circuit. Caldwell, Livingston, Lyon, and Trigg.
- (57) **Fifty-seventh Judicial Circuit. Russell and Wayne.**

Section 2. KRS 23A.040 is amended to read as follows:

The following judicial circuits are entitled to two (2) judges and shall have two (2) numbered divisions of the Circuit Court:

- (1) Second Judicial Circuit.
- (2) Sixth Judicial Circuit.
- (3) Eleventh Judicial Circuit.
- (4) Twelfth Judicial Circuit.
- (5) Fourteenth Judicial Circuit.
- (6) Seventeenth Judicial Circuit.

- (7) Twenty-first Judicial Circuit.
- (8) Twenty-fourth Judicial Circuit.
- (9) Twenty-seventh Judicial Circuit.
- (10) Thirty-second Judicial Circuit.
- (11) Thirty-fourth Judicial Circuit.
- (12) ***Forty-first Judicial Circuit.***
- (13) Forty-sixth Judicial Circuit.
- (14)~~(13)~~ ***Fifty-first Judicial Circuit.***
- (15) Fifty-fourth Judicial Circuit.

Section 3. KRS 24A.050 is amended to read as follows:

The following judicial districts are entitled to two (2) District Judges and shall have two (2) numbered divisions of the District Court:

- (1) Third Judicial District.
- (2) Fourth Judicial District.
- (3) ***Fifth Judicial District.***
- (4) Ninth Judicial District.
- (5)~~(4)~~ Eleventh Judicial District.
- (6)~~(5)~~ Twelfth Judicial District.
- (7)~~(6)~~ Thirteenth Judicial District.
- (8)~~(7)~~ Fourteenth Judicial District.
- (9)~~(8)~~ Fifteenth Judicial District.
- (10)~~(9)~~ Eighteenth Judicial District.
- (11)~~(10)~~ Twenty-first Judicial District.
- (12)~~(11)~~ Twenty-fourth Judicial District.
- (13)~~(12)~~ Twenty-seventh Judicial District.
- (14)~~(13)~~ Twenty-eighth Judicial District.
- (15)~~(14)~~ Thirty-first Judicial District.
- (16)~~(15)~~ Thirty-second Judicial District.
- (17)~~(16)~~ Thirty-fourth Judicial District.
- (18)~~(17)~~ Thirty-fifth Judicial District.
- (19) ***Thirty-seventh Judicial District.***
- (20)~~(18)~~ Thirty-eighth Judicial District.
- (21)~~(19)~~ Fortieth Judicial District.
- (22)~~(20)~~ Forty-first Judicial District.
- (23)~~(21)~~ Forty-third Judicial District.
- (24)~~(22)~~ Forty-sixth Judicial District.
- (25)~~(23)~~ Forty-eighth Judicial District.
- (26)~~(24)~~ Fiftieth Judicial District.
- (27)~~(25)~~ Fifty-first Judicial District.

- (28)~~[(26)]~~ Fifty-third Judicial District.
- (29)~~[(27)]~~ Fifty-fourth Judicial District.
- (30)~~[(28)]~~ Fifty-fifth Judicial District.
- (31)~~[(29)]~~ Fifty-sixth Judicial District.

Section 4. The provisions of this section shall become effective April 1, 2002. Any judge of an existing judicial district shall retain his or her judgeship in the district for which elected. A vacancy shall exist in each new judicial circuit as of the effective date of this Act.

Approved March 15, 2001

CHAPTER 73

(HB 276)

AN ACT relating to Kentucky Employers' Mutual Insurance Authority.

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

Section 1. KRS 342.809 is amended to read as follows:

- (1) The board shall elect a chair and other officers it deems necessary from its members. The Governor shall make the initial appointments to the board as follows: three (3) members shall be appointed to terms that expire December 31, 1995, and four (4) members shall be appointed to terms that expire December 31, 1997. Subsequent members shall serve terms of four (4) years and shall serve until their successors are appointed and qualified.
- (2) Senate confirmation of the Governor's appointees is required in accordance with the provisions of KRS 11.160. If a member is not confirmed by the Senate, the Governor, within thirty (30) days of the rejection, shall make another appointment. That member shall serve the remainder of the term in question and shall also be subject to confirmation should the term extend until the next regular session, or a special session which includes this subject on the call, whichever occurs earlier.
- (3) Six (6) members shall constitute a quorum. The board shall meet at least ***quarterly and at such other times as the chair may determine. The board shall also meet upon the call of four (4) or more of the members of the board***~~monthly~~.
- (4) On July 15, 1998, each member, except the secretaries of the cabinets, shall be compensated eight thousand five hundred dollars (\$8,500) annually, and beginning on July 15, 1999, twelve thousand dollars (\$12,000) annually. In addition, the members of the board, except the secretaries of the cabinets, shall be reimbursed for necessary travel and lodging expenses in accordance with administrative regulations promulgated by the Cabinet for Finance and Administration for state employees.
- (5) A board member, except the secretaries of the cabinets, may be removed for cause by the board. Cause shall include, but not be limited to, incompetence or misconduct defined in policies or bylaws adopted by the board.

Approved March 15, 2001

CHAPTER 74

(HB 124)

AN ACT relating to reorganization.

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

Section 1. KRS 194A.095 is amended to read as follows:

There is~~By the year 2000, there shall be~~ created in the Cabinet for Health Services an Office of Women's ***Physical and Mental*** Health for the purpose of:

- (1) Serving as a repository for data and information affecting women's ***physical***~~health~~ and mental health ***issues***;

- (2) Analyzing and communicating trends in women's health issues and mental health;
- (3) Recommending to the Cabinet for Health Services and to any advisory committees created under KRS 216.2923, data elements affecting women's ~~physical health~~ and mental health. ***The Office shall advise and direct which data elements*** ~~that~~ should be collected, analyzed, and reported in a timely manner under KRS 216.2920 to 216.2929;
- (4) Cooperating ***and collaborating*** with the Cabinet for Health Services in receiving and disseminating through ***all forms of media including*** the internet relevant aggregate data findings under KRS 216.2920 to 216.2929 which affect women; and
- (5) ***Planning, developing and*** administering a Women's Health Resource Center ***within the Cabinet for Health Services*** to focus on targeted preventive care and comprehensive health education.

Section 2. The General Assembly hereby confirms Executive Order 2000-1180, dated September 1, 2000, to the extent it is not otherwise confirmed by this Act.

Approved March 15, 2001

CHAPTER 75

(HB 125)

AN ACT relating to reorganization.

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

Section 1. KRS 210.575 is amended to read as follows:

- (1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Retardation and Other Developmental Disabilities. The commission shall consist of:
 - (a) The secretary of the Cabinet for Health Services;
 - (b) The secretary of the Cabinet for Families and Children;
 - (c) The commissioner of the Department for Mental Health and Mental Retardation Services;
 - (d) The commissioner of the Department for Medicaid Services;
 - (e) The commissioner of the Department of Vocational Rehabilitation;
 - (f) The director of the University Affiliated Program at the Interdisciplinary Human Development Institute of the University of Kentucky;
 - (g) The director of the Developmental Disabilities Council;
 - (h) Two (2) members of the House of Representatives, appointed by the Speaker of the House;
 - (i) Two (2) members of the Senate, appointed by the Senate President; and
 - (j) Public members, appointed by the Governor ~~within ninety (90) days of April 14, 2000,~~ as follows:
 1. ***Five (5)*** ~~Three (3)~~ family members, at least one (1) of whom shall be a member of a family with a child with mental retardation or other developmental disabilities, and one (1) of whom shall be a member of a family with an adult with mental retardation or other developmental disabilities. ***Of these five (5) family members, at least two (2) shall be members of a family with an individual with mental retardation or other developmental disabilities residing in the home of the family member or in a community-based setting, and at least two (2) shall be members of a family with an individual with mental retardation or other mental disabilities residing in an institutional residential facility that provides service to individuals with mental retardation or other developmental disabilities;***
 2. Three (3) persons with mental retardation or other developmental disabilities;
 3. Two (2) business leaders;
 4. Three (3) direct service providers representing the Kentucky Association of Regional Programs and the Kentucky Association of Residential Resources; and

5. One (1) representative of a statewide advocacy group.

The six (6) appointments made under subparagraphs 1. and 2. of this paragraph shall be chosen to reflect representation from each of Kentucky's six (6) congressional districts.

- (2) The secretary of the Cabinet for Health Services shall serve as chair of the commission.
- (3) Members defined in paragraphs (a) to (i) of subsection (1) of this section shall serve during their terms of office. All public members appointed by the Governor shall serve a four (4) year term and may be reappointed.
- (4) All public members of the commission shall receive twenty-five dollars (\$25) per day for attending each meeting. All commission members shall be reimbursed for necessary travel and other expenses actually incurred in the discharge of duties of the commission.

Section 2. The General Assembly confirms Executive Order 2000-1005, dated July 27, 2000, to the extent it is not otherwise confirmed or superseded by this Act.

Approved March 15, 2001

CHAPTER 76

(HB 17)

AN ACT relating to education councils.

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

Section 1. KRS 164.001 is amended to read as follows:

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

- (1) "Administrator" means the chief executive officer of the institution;
- (2) "Adult basic education" means instruction in mathematics, science, social studies, reading, language arts, and related areas to enable individuals to better function in society;
- (3) "Benchmarks" means objective measures developed where applicable or practical by the Council on Postsecondary Education to judge the performance of the postsecondary education system and progress toward the goals as stated in KRS 164.003(2);
- (4) "Board" or "governing board" means the board of trustees for the University of Kentucky or the University of Louisville, the board of regents for a regional university, or the board of regents for the Kentucky Community and Technical College System;
- (5) "Board of regents" means the governing board of each regional university and the Kentucky Community and Technical College System;
- (6) "Committee" means the Strategic Committee on Postsecondary Education created in KRS 164.004;
- (7) "Council" means the Council on Postsecondary Education created in KRS 164.011;
- (8) "Customized training" means training in specific academic areas, work processes, or technical skills that are designed to serve a specific industry or industries to upgrade worker skills;
- (9) "Goals" means the six (6) goals specified in KRS 164.003(2);
- (10) "Institution" means a university, college, community college, health technology center, vocational-technical school, technical institute, technical college, technology center, or the Kentucky Community and Technical College System;
- (11) "Kentucky Community and Technical College System" means the system composed of two (2) branches, which are:
- (a) The Technical Institutions' Branch. This branch includes the postsecondary vocational-technical schools, state technical institutes, health technology centers, and technology centers, formerly known as Kentucky Tech and operated by the Cabinet for Workforce Development; and

- (b) The University of Kentucky Community College System, with the exception of the Lexington Community College.

The system also includes institutions created by the board of regents for the Kentucky Community and Technical College System and approved by the General Assembly;

- (12) "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;
- (13) "Lower division academic course" means any academic course offered for college or university credit that is designated as a freshman or sophomore level academic course;
- (14) "Nonteaching personnel" means any employee who is a full-time staff member, excluding a president, chancellor, vice president, academic dean, academic department chair, or administrator;
- (15) "Postsecondary education system" means the following public institutions: University of Kentucky, University of Louisville, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, and the Kentucky Community and Technical College System;
- (16) *"P-16 council" or "council of partners" means a local or state council that is composed of educators from public and private preschools, elementary, secondary, and postsecondary education institutions, local board of education members, and may include community and business representatives that have voluntarily organized themselves for the purpose of improving the alignment and quality of the education continuum from pre-school through postsecondary education as well as student achievement at all levels;*
- (17) "Public" means operated with state support;
- ~~(18)~~~~(17)~~ "Relative" means a person's father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, or daughter-in-law;
- ~~(19)~~~~(18)~~ "Remedial education" means any program, course, or activity that is designed specifically for students who have basic deficiencies in reading, written or oral communication, mathematics, study skills, or other skills necessary to do beginning postsecondary work as defined by the institution;
- ~~(20)~~~~(19)~~ "Standardized degree program" means a program, approved by the Council on Postsecondary Education, that consists of specific competencies, curriculum, and performance requirements regardless of the providing institution;
- ~~(21)~~~~(20)~~ "Strategic agenda" means the state strategic postsecondary education agenda described in KRS 164.0203; and
- ~~(22)~~~~(21)~~ "Technical institution" means an educational institution that offers certificates, diplomas, or technical degrees in technical or occupational-related programs, including a facility called a vocational-technical school, technical institute, health technology center, technology center, technical college, or similar designation.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) *Effective August 1, 2002, the Council on Postsecondary Education shall administer a competitive grant program to enable the establishment of local P-16 councils. A P-16 council may be called a council of partners. The Council on Postsecondary Education and the Kentucky Board of Education shall jointly establish the criteria for participation in the grant program and the amount of funds available to each local P-16 council based on funds appropriated for this purpose. A postsecondary education institution shall assume the leadership role for managing a local P-16 council grant.*
- (2) *A local P-16 council shall promote the preparation and development of teachers, the alignment of competency standards, and the elimination of barriers that impede student transition from preschool through baccalaureate programs.*
- (3) *Each local P-16 council shall provide an annual written report of its activities and recommendations to its members and the institutions they represent, the Kentucky Board of Education, the Council on Postsecondary Education, and the Education Professional Standards Board.*

Approved March 15, 2001

CHAPTER 77**(HB 108)**

AN ACT relating to gun buy-back programs.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

- (1) *Each law enforcement agency of state, county, urban-county, charter county, or city government or any other law enforcement agency that participates in a "gun buy-back program" or other program in which firearms or ammunition are purchased or surrendered for the purpose of destruction shall assure that:*
 - (a) *The serial number of each firearm that is purchased or surrendered to the program is checked against local, state, and federal records of stolen firearms and, if it is found that the firearm is a stolen firearm, that the firearm is not destroyed without the written permission of the lawful owner thereof and that if the lawful owner of the firearm does not give written permission for the firearm to be destroyed, that the firearm is returned to its lawful owner;*
 - (b) *If it is determined that a firearm that is purchased by, or surrendered to the "gun buy-back program" is stolen, that the law enforcement makes an effort to arrest the thief or any person who possessed the firearm knowing it was stolen; and*
 - (c) *Prior to the destruction of any firearm that is purchased or surrendered, that a written determination is made as to whether the firearm may have been used in a crime, and that if it is determined that the firearm probably was used in a crime, that it is retained for evidence, and if it is determined that the firearm probably was not used in a crime, if the firearm is a rifled firearm, that a fired bullet and fired cartridge case is retained for possible use as evidence and that if the firearm is a smooth bore firearm, that a fired cartridge case is retained for possible use as evidence.*
- (2) *Prior to returning a stolen firearm to a lawful owner, the law enforcement agency shall determine whether or not the lawful owner is eligible to possess a firearm under federal law. If the lawful owner of the firearm is ineligible to possess a firearm under federal law, the law enforcement agency may destroy the firearm after compliance with subsection (1)(c) of this section.*

Approved March 15, 2001

CHAPTER 78**(HB 40)**

AN ACT relating to the establishment of a program to encourage retirees to make their homes in Kentucky.

WHEREAS, the General Assembly recognizes the contribution of older citizens toward making Kentucky an attractive and beneficial retirement location; and

WHEREAS, Kentucky will achieve significant benefits from the contribution of older residents who will both enrich our communities, and generate economic development advantages for our communities and the Commonwealth; and

WHEREAS, retirees are good citizens. They give more than they take, volunteer their time, and bring a wealth of experience and knowledge from which all of our citizens can profit;

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

- (1) *The Department of Travel of the Tourism Development Cabinet shall, after appropriate research has been conducted, establish and maintain a Kentucky Certified Retirement Community Program whereby retirees and those planning to retire are encouraged to make their homes in Kentucky communities that have met certain criteria to be certified by the Tourism Development Cabinet as a Kentucky certified retirement community. In support of this program, the Department of Travel shall identify certain issues of interest to*

retirees or potential retirees in order to inform them of the benefits of living in Kentucky. Issues of interest to retirees may include, but are not limited to:

- (a) Kentucky's state and local tax structure;*
- (b) Housing opportunities and cost;*
- (c) Climate;*
- (d) Personal safety;*
- (e) Working opportunities;*
- (f) Health care services and other services along the continuum of services including but not limited to home and community based services;*
- (g) Transportation;*
- (h) Continuing education;*
- (i) Leisure living;*
- (j) Recreation;*
- (k) The performing arts;*
- (l) Festivals and events;*
- (m) Sports at all levels; and*
- (n) Other services and facilities that are necessary to enable persons to age in the community and in the least restrictive environment.*

(2) The mission of the Kentucky Certified Retirement Community Program shall be to:

- (a) Promote the state as a retirement destination to retirees and those persons and families who are planning retirement both in and outside of Kentucky;*
- (b) Assist Kentucky communities in their efforts to market themselves as retirement locations and to develop communities that retirees would find attractive for a retirement lifestyle;*
- (c) Assist in the development of retirement communities and lifecare communities for economic development purposes and as a means of providing a potential workforce and enriching Kentucky communities; and*
- (d) Encourage tourism to Kentucky in the form of mature market travel to Kentucky in reference to retirement desirability for the future, and for the visitation of those who have chosen to retire in Kentucky.*

(3) The Tourism Development Cabinet shall coordinate the development and planning of the Kentucky Certified Retirement Community Program with the Cabinet for Economic Development, the Office of Aging Services in the Cabinet for Health Services, the Kentucky Commission on Military Affairs, the Department of Veterans' Affairs, and other state and local groups interested in participating in and promoting the program.

(4) To obtain certification as a Kentucky certified retirement community, the following requirements shall be met:

- (a) Official community support. A resolution by the governing authority endorsing the local retirement recruitment effort is required;*
- (b) Designation of a sponsor. The program shall have an official sponsoring organization that shall appoint an individual who will be accountable to the community and to the state;*
- (c) Funding. The sponsoring organization must commit a minimum of ten thousand dollars (\$10,000) per year for the local program;*
- (d) Health Services. There shall be a hospital and emergency medical services that are readily accessible to the community;*

- (e) *Available housing. The community shall maintain information on both resale housing and rental housing to ensure that the quantity is sufficient to meet the needs of potential new retiree residents;*
- (f) *Retiree desirability assessment. The community shall conduct a retiree desirability assessment that shall focus on a number of factors including, but not limited to medical services, adult education opportunities, shopping, recreation, cultural opportunities, safety, aging services, and a continuum of care including home and community based services, housing for the elderly, assisted living, personal care, and nursing care facilities;*
- (g) *Establishment of subcommittees. Each locality shall have a general retiree attraction committee and a minimum of four (4) subcommittees as follows:*
 - 1. *Community inventory/assessment subcommittee. This subcommittee shall conduct an unbiased inventory and assessment of whether the community can offer the basics that retirees demand and develop a professional portfolio containing brief biographies of professionals in the community;*
 - 2. *Community relations/fundraising subcommittee. This subcommittee shall locate retirees living in the community, act as salespersons for the program, raise funds necessary to run the program, recruit subcommittee members, organize special events, and promote and coordinate the program with local entities;*
 - 3. *Marketing and promotion subcommittee. This subcommittee shall establish a community image, evaluate target markets, develop and distribute promotional material, and coordinate advertising and public relations campaigns; and*
 - 4. *Ambassadors subcommittee. This subcommittee shall be the first contact with prospective retirees and provide tour guides when prospects visit the community. The subcommittee shall respond to inquiries, log contacts made, provide tours, invite prospects to special community events, and maintain continual contact with prospects until the time that the prospect makes a retirement location decision;*
- (h) *Community profile. The sponsor shall develop a community profile similar to that used by many chambers of commerce. It will include factors such as crime statistics, tax information, recreational opportunities, and housing availability; and*
- (i) *Written marketing plan. The retiree attraction committee shall submit a marketing plan that shall detail the mission, the target market, the competition, an analysis of the community's strengths, weaknesses, opportunities and threats, and the strategies the program will employ to attain its goals.*
- (5) *During the certification process, a representative of the retirement attraction committee shall attend state training meetings.*
- (6) *The retiree attraction committee shall work to gain the support of churches, clubs, businesses, and the local media, as this support is necessary for the success of the program.*
- (7) *Within ninety (90) days of certification, the locality shall submit a complete retiree attraction package to the Department of Travel.*
- (8) *Before certification is awarded, the retiree attraction committee shall submit a written three (3) year commitment to the program and a long term plan outlining steps the community will undertake to maintain its desirability as a destination for retirees. The long range plan shall outline plans to correct any facility and service deficiencies identified in the retiree desirability assessment required by subsection (4)(f) of this section. The written commitment and long range plan shall be forwarded to the Department of Travel of the Tourism Development Cabinet.*
- (9) *Upon being certified as a Kentucky certified retirement community, the Tourism Development Cabinet shall provide the following assistance to the community:*
 - (a) *Assistance in the training of local staff and volunteers;*
 - (b) *Ongoing oversight and guidance in marketing, plus updating on national retirement trends;*
 - (c) *Inclusion in the state's national advertising and public relations campaigns and travel show promotions, including a prominent feature on the cabinet's internet website;*

- (d) *Eligibility for state financial assistance for brochures, support material, and advertising;*
 - (e) *An annual evaluation and progress assessment on maintaining and improving the community's desirability as a home for retirees.*
- (10) *The Tourism Development Cabinet shall promulgate administrative regulations to implement the provisions of this section.*

Section 2. Section 1 of this Act shall be implemented by the Tourism Development Cabinet to the extent that appropriations from the General Assembly are available for the purposes set forth in Section 1.

Approved March 15, 2001

CHAPTER 79

(SJR 52)

A JOINT RESOLUTION relating to highway signage.

WHEREAS, quick service restaurants represent a large proportion of the type of restaurants the traveling public encounters at interchanges when exiting from the nation's interstate system; and

WHEREAS, a growing trend in the quick service restaurant industry is to combine two or three trademark menu brands into a single business; and

WHEREAS, these combined endeavors, known as "2-in-1's" and "3-in-1's", represent a single business with an expanded menu, not two or three businesses operating under one roof; and

WHEREAS, current federal guidelines for highway signage permit only one business logo per highway sign for each category of food, gas, and lodging with a limit of six logos per sign; and

WHEREAS, current federal law requires "2-in-1's" and "3-in-1's" to use separate logos for each brand represented ignoring the fact that it is a single business operating an expanded menu and unduly restricting access to very limited highway signage; and

WHEREAS, the Congressional Conference Report adopted on October 5, 2000, governing the United States Department of Transportation specifically addresses the use of dual logos on interstate signs as follows: "The conferees understand that in response to the establishment of shared facilities for restaurants and other services along interstate highways, there is a growing interest in the placement of dual logos on interstate signs to provide information to the traveling public. The Commonwealth of Kentucky is considering a demonstration project that would allow for the use of dual logos in one slot on the interstates marking gas, food, and lodging facilities. The conferees believe this proposal has merit and direct the Federal Highway Administration to approve Kentucky's request, should it be submitted.";

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Transportation Cabinet shall, not later than thirty (30) days from the effective date of this Resolution, submit a request to the Federal Highway Administration (FHWA) relating to establishing a demonstration project on interstate highway signage for dual logos for gas, food, and lodging facilities. The request shall cite the Congressional mandate for approval.

Section 2. The Kentucky Transportation Cabinet shall coordinate the project with the Federal Highway Administration to facilitate the erection of dual logos on interstate highways in Kentucky as quickly as possible.

Section 3. The Kentucky Transportation Cabinet shall, not later than October 1, 2002, provide to the Interim Joint Committee on Transportation a status report on the dual logo demonstration project, including the Cabinet's recommendations and findings relating to the utilization of dual logos by the business community.

Approved March 15, 2001

CHAPTER 80**(SB 94)**

AN ACT relating to the practice of psychology.

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

Section 1. KRS 319.005 is amended to read as follows:

No person shall engage in the practice of psychology as defined in KRS 319.010 or hold himself **or herself** out by any title or description of services which incorporates the words "psychological," "psychologist," or "psychology", unless licensed~~[or certified]~~ by the board. No person shall engage in the practice of psychology in a manner that implies or would reasonably be deemed to imply that he **or she** is licensed~~[or certified]~~, unless he **or she** holds a valid license~~[or certificate]~~ issued by the board.

Section 2. KRS 319.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

- (1) "Association" means the Kentucky Psychological Association;
- (2) "Board" means the Kentucky Board of Examiners of Psychology;
- (3) **"Credential holder" means any person who is regulated by the board;**
- (4) **"EPPP" means the Examination for Professional Practice in Psychology developed by the Association of State and Provincial Psychology Boards;**
- (5) **"License" means the credential issued by the board to a licensed psychologist, licensed psychological practitioner, certified psychologist with autonomous functioning, certified psychologist, or a licensed psychological associate;**
- (6) "Practice of psychology" means rendering to individuals, groups, organizations, or the public any psychological service involving the application of principles, methods, and procedures of understanding, predicting, and influencing behavior, such as the principles pertaining to learning, perception, motivation, thinking, emotions, and interpersonal relationships; the methods and procedures of interviewing, counseling, and psychotherapy; of constructing, administering, and interpreting tests of mental abilities,~~[and]~~ aptitudes, interests, attitudes, personality characteristics, emotion, and motivation. The application of said principles **in testing, evaluation, treatment, use of psychotherapeutic techniques**, and **other** methods includes, but is not **limited**~~[restricted]~~ to: diagnosis, prevention, and amelioration of adjustment problems and emotional,~~[and]~~ mental,~~[and]~~ nervous, **and addictive disorders and mental health conditions** of individuals and groups; educational and vocational counseling; the evaluation and planning for effective work and learning situations; and the resolution of interpersonal and social conflicts;
- (7)~~(4)~~ "Psychotherapy" means the use of learning, conditioning methods, and emotional reactions, in a professional relationship, to assist a person or persons to modify feelings, attitudes, and behavior which are intellectually, socially, or emotionally maladjustive or ineffectual; and
- (8)~~(5)~~ "Psychologist" means any person who holds himself **or herself** out by any title or description of services incorporating the words "psychologic," "psychological," "psychologist," "psychology," "psychopractice," or any other term or terms that imply he **or she** is trained, experienced, or an expert in the field of psychology.

Section 3. KRS 319.015 is amended to read as follows:

Nothing in this chapter shall be construed to limit:

- (1) The activities, services, and use of title on the part of a person in the employ of the federal government;
- (2) Persons in the employ of accredited institutions of higher education from engaging in the teaching of psychology, the conduct of psychological research, the provision of consultation services to organizations or institutions, or the provision of expert testimony, but not including the delivery or supervision of direct psychological services to individuals or groups;

- (3) Persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes from rendering services consistent with the laws regulating their professional practice and the ethics of their profession. ***They shall***, ~~if they do~~ not represent themselves to be psychologists ***or use the term "psychological" in describing their services;***
- (4) The activities of a student, intern, or resident in psychology, pursuing a course of study approved by the department of psychology of an educational institution rated acceptable by the board for qualifying training and experience, provided such activities are recognized by transcript as a part of his ***or her*** supervised course of study;
- (5) The recognized educational activities of teachers in accredited public and private schools, the authorized duties of guidance counselors who are certified by the ***Education and Professional Standards Board***~~[Kentucky Board of Education]~~, or the activities of persons using psychological techniques in business and industrial organizations for employment placement, promotion, or job adjustment of their own officers and employees;
- (6) Persons who are credentialed as school psychologists by the ***Education and Professional Standards Board***~~[Kentucky Department of Education]~~ from using the title "school psychologist" and practicing psychology as defined in KRS 319.010, if their practice is restricted to regular employment within a setting under the purview of the ***Education and Professional Standards Board***~~[Kentucky Department of Education]~~. These individuals shall be employees of the educational institution and not independent contractors providing psychological services to educational institutions;
- (7) A duly ordained minister, priest, rabbi, Christian Science practitioner, or other clergyman from carrying out his ***or her*** responsibilities while functioning in ~~a~~***his*** ministerial capacity within a recognized religious organization serving the spiritual needs of its constituency, if he ***or she*** does not hold himself ***or herself*** out as a psychologist; or
- (8) Any nonresident temporarily employed in this state from rendering psychological services for not more than thirty (30) days every two (2) years, if he ***or she*** holds a valid current license or certificate as a psychologist in ~~their~~***his*** home state or country and registers with the board prior to commencing practice in the Commonwealth.
- (9) ***Persons in subsection (5) of this section pursuing alternative certification as professional counselors pursuant to the provisions of KRS 335.500 to 335.599 who meet the requirements set out in KRS 335.525 shall be exempt from meeting either subsection (1)(e) or (1)(f) of that section.***

Section 4. KRS 319.020 is amended to read as follows:

- (1) The board shall consist of nine (9) members appointed by the Governor. Six (6) members shall be licensed psychologists. Two (2) members shall be ***credentialed***~~certified~~ by the board as certified psychologists, ***licensed psychological practitioners***, or ***licensed*** psychological associates. One (1) member shall be a citizen-at-large who is not associated with or financially interested in the practice or business regulated.
- (2) Licensed psychologist members shall be appointed by the Governor from a group consisting of the three (3) nominees receiving the most votes for each position to be filled, the nominees to be selected by all ***licensed*** psychologists ***credentialed***~~licensed~~ under this chapter from a list of eligible candidates prepared by the Kentucky Psychological Association. Candidates shall be solicited from all ***licensed*** psychologists ***credentialed***~~licensed~~ according to the provisions of this chapter and each nominee shall be a ***licensed*** psychologist ***credentialed***~~licensed~~ according to the provisions of this chapter. Each ***licensed*** psychologist member shall be a resident of this state and shall have engaged in the practice or teaching of psychology as a licensed psychologist for at least three (3) years in this state.
- (3) Certified psychologist, ***licensed psychological practitioner***, or ***licensed psychological associate*** members shall be appointed by the Governor from a group consisting of the three (3) nominees receiving the most votes for each position to be filled, the nominees to be selected by all ***certified*** psychologists, ***licensed psychological practitioners***, and ***licensed*** psychological associates ***credentialed***~~certified~~ under this chapter from a list of eligible candidates prepared by the Kentucky Psychological Association. Candidates shall be solicited from all ***certified*** psychologists, ***licensed psychological practitioners***, and ***licensed*** psychological associates ***credentialed***~~certified~~ according to the provisions of this chapter. Each nominee shall be a resident of this state, ***licensed***~~certified~~ according to the provisions of this chapter, and shall have engaged in the practice or teaching of psychology as a certified psychologist, ***licensed psychological practitioner***, or ***licensed*** psychological associate for at least three (3) years in this state.

- (4) The term of each board member shall be four (4) years and until a successor is appointed and qualified~~[-, except that in 1992, one (1) licensed member shall be appointed for a term of two (2) years and one (1) licensed member shall be appointed for a term of four (4) years. After July 14, 1992, the seven (7) appointed board members currently serving shall serve as board members until their respective terms expire].~~ No member shall serve more than two (2) consecutive full terms. The Governor shall fill any vacancy occurring in the board in the manner prescribed in subsection (2) of this section. Upon recommendation by a majority of the board members and after notice and a hearing, the Governor shall remove any member for incompetence, neglect of duty, or malfeasance in office.
- (5) Five (5) members of the board shall constitute a quorum. Each member shall receive one hundred dollars (\$100) per day for attending each meeting and shall receive his necessary expenses incurred in the performance of the duties required by this chapter. Annually the board shall elect one (1) of its licensed members as **chairperson for a term of one (1) year**~~[chairman]~~. No person shall serve more than two (2) consecutive full terms as **chairperson**~~[chairman]~~. The board shall meet at least twice annually and at other times as it determines necessary. Special meetings may be called by the **chairperson**~~[chairman]~~ and shall be called upon the written request of two (2) members.

Section 5. KRS 319.030 is amended to read as follows:

- (1) On June 30 of each year the board shall submit to the Governor a written report including the names of all **persons**~~[psychologists]~~ to whom licenses~~[or certificates]~~ have been granted as provided in this chapter and any cases heard and decisions rendered.
- (2) The **board**~~[principal office of the board shall be in Frankfort, but it]~~ may **locate its principal office**, meet, or conduct any of its business at any place in this state.
- (3) The board shall keep a record of its proceedings and a register of licensed and certified psychologists, **licensed psychological practitioners**, and **licensed** psychological associates. The books and records of the board shall be prima facie evidence of the matters therein contained.

Section 6. KRS 319.032 is amended to read as follows:

- (1) The board shall promulgate administrative regulations:
- (a) Establishing requirements, standards, and tests to determine the moral, intellectual, educational, scientific, technical, and professional qualifications of applicants for **licensure**~~[licenses or certificates; defining areas of specialty within the field of psychology]~~; and preparing or selecting and administering examinations on general psychological knowledge~~[and on the appropriate psychological specialty or specialties of the applicant]~~. Neither certified psychologists, **licensed psychological practitioners**, nor **licensed** psychological associates may participate in the examination of applicants for **licensure as licensed psychologists**~~[licenses]~~;
 - (b) Establishing and defining the scope of practice within~~[each area of specialty within]~~ the field of psychology;
 - (c) Setting the requirements for issuing, denying, suspending, restricting, and revoking licenses~~[and certificates]~~, and placing **credential**~~[licensees and certificate]~~ holders on probation;
 - (d) Developing specific guidelines to follow upon receipt of an allegation of sexual misconduct by a **person credentialed**~~[psychologist licensed or certified]~~ by the board. The guidelines shall include investigation, hearing officer, and hearing procedures which ensure that the process does not revictimize the alleged victim or cause harm if a **credential holder**~~[psychologist]~~ is falsely accused;
 - (e) Requiring training for the board and investigators hired by the board on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedure in sex offense cases, and effective intervention with victims and offenders;
 - (f) Establishing requirements for continuing education not to exceed thirty (30) contact hours per three (3) year renewal period as a condition for renewal of licenses~~[and certificates]~~;
 - (g) Establishing and collecting reasonable fees for directories, transcribing, transferring of records, and other services;

- (h) Conducting hearings or appointing hearing officers to conduct hearings on any matter under the jurisdiction of the board, in accordance with KRS Chapter 13B;
 - (i) Entering into reciprocal agreements with boards of examiners of psychology of other states having qualifications and standards at least as high as those of this state providing for reciprocal licensure~~[-or certification];~~
 - (j) Employing personnel, including hearing officers which it considers necessary for the performance of its functions, determining the duties of personnel, and compensating them within the limits of funds available to the board;
 - (k) Investigating complaints or suspected violations of this chapter and notifying proper law enforcement authorities. For the purpose of enforcing the provisions of this chapter, the board shall have the authority to administer oaths, receive evidence, interview persons, issue subpoenas, and require the productions of books, papers, documents, or other evidence;
 - (l) Governing the supervision of certified psychologists and the supervision and employment of *licensed* psychological associates and candidates for licensure;~~[-and]~~
 - (m) *Developing specific guidelines to allow school psychologists who are dually credentialed by the Education and Professional Standards Board and the board to obtain supervision acceptable to the board from a licensed psychologist who is neither an employee nor contractor of the school system that employs the school psychologist being supervised; and*
 - (n) Notwithstanding the fee schedules specified in this chapter, increasing or decreasing fees as it deems appropriate.
- (2) The board shall have the authority to promulgate other administrative regulations as it deems necessary for the proper administration of this chapter.
 - (3) The board, at its discretion, may use funds as necessary to purchase liability insurance for members and executive officers of the board, inspectors, examiners, investigators, and staff members exempt from classified service of the state by KRS 18A.115.

Section 7. KRS 319.050 is amended to read as follows:

- (1) Before granting a license to practice psychology and to use the title "Licensed Psychologist" the board shall require the applicant to pass an examination in psychology and to fulfill all requirements for supervised experience.
- (2) The applicant shall:
 - (a) Pay a fee not to exceed three hundred dollars (\$300);
 - (b) Have received a doctoral degree in psychology from a regionally accredited educational institution; provided, however, the board may grant a license to an individual otherwise qualified under this chapter who has received a doctoral degree in psychology from an educational institution outside the United States, if the educational institution would otherwise be accredited by a regional accrediting body if located in the United States; and
 - (c) Have had at least two (2) years of supervised professional experience satisfactory to the board, one (1) year of which shall be postdoctoral~~[-; however, this requirement shall not apply to those applicants who are currently enrolled in a program of study which will result in the applicant obtaining a doctoral degree in psychology from a regionally accredited educational institution. No exemption shall be made for any applicant who enrolls in such doctoral program after July 14, 1992].~~
- (3) Upon acceptance of the application to sit for the examination in psychology, the applicant may practice psychology under the supervision of a licensed psychologist under conditions of supervision and temporary licensure established by the board. ***The board shall establish a grace period not to exceed sixty (60) days to allow for the employment and supervision of the applicant by an agency from the time the applicant's degree requirements are completed to the submission of the complete application.*** During this period of supervision, the applicant for licensure may not supervise certified psychologists, *licensed* psychological associates, other applicants for licensure, or temporarily licensed persons, nor shall he engage in an independent practice, except under the employment of his supervising psychologist. Upon certification to the

board of completion of the one (1) full year of supervision satisfactory to the board, the applicant shall be examined in the practice of psychology.

- (4) The board shall grade and keep the examinations **and results on file** for ~~at least~~ one (1) year. ~~Any unsuccessful applicant may,~~ Upon written request to the board, **an applicant may** arrange to discuss his **or her** performance on the examination.
- (5) Upon successful completion of the examination process, the applicant may use the title "Licensed Psychologist."
- (6) Licensed psychologists may function independently without supervision and may employ and supervise certified psychologists and **licensed** psychological associates. Licensed psychologists may supervise no more than a total of six (6) certified psychologists, **licensed** psychological associates, or applicants for licensure ~~or certification~~ at one (1) time.
- (7) The board shall after examination ~~in a specialty area~~ issue a license to practice psychology. The designation "Health Service Provider" shall be made on the license of those **licensed** psychologists who perform activities which include the delivery or supervision of direct health-care services to individual or groups who are intended beneficiaries of such services **and who have completed appropriate training and supervised experience, including an internship, in health service delivery at the doctoral level.** ~~The designation "Health Service Provider" shall be given to those psychologists fully licensed in the specialty areas of clinical, counseling, or school psychology.~~

SECTION 8. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

- (1) *A person holding a credential as a certified psychologist or as a licensed psychological associate may apply for a license to perform certain functions within the practice of psychology without supervision and to use the title of "licensed psychological practitioner" when all of the following conditions are met:*
 - (a) *Submission of three (3) letters of endorsement to the board to sit for the examination;*
 1. *One (1) of the letters shall be from the applicant's current-board approved supervisor of record and shall include a statement describing the scope of practice demonstrated in the clinical experience of the applicant; and*
 2. *Two (2) letters shall be from licensed mental health professionals who are acceptable to the board and who are familiar with the clinical work of the applicant;*
 - (b) *Payment of a fee not to exceed two hundred dollars (\$200);*
 - (c) *Documentation of at least sixty (60) semester hours of graduate study in psychology or a related field or its equivalent acceptable to the board; and*
 - (d) *Completion, after credentialing by the board as a certified psychologist, psychological associate, or licensed psychological associate, of the equivalent of five (5) full-time years of professional experience under the supervision of a board-approved licensed psychologist.*
- (2) *An applicant for licensure under this section shall not have been subject to disciplinary action by the board. An applicant who has been the subject of disciplinary action may appeal to the board for an exception;*
- (3) *An applicant for licensure under this section shall be required by the board to pass the national objective examination known as the EPPP, with a score equal to or exceeding the score required for passage for a licensed psychologist candidate at the doctoral level at the time the examination is taken. The board shall accept the applicant's previous examination results for the objective EPPP examination if the original test score satisfied the licensure requirement at the doctoral level in effect at the time of that test administration. If the applicant's previous score does not meet this criterion, the applicant may retake the examination until the score obtained equals or exceeds the score required for independent practice at the doctoral level at the time the examination is taken.*
- (4) *The board shall require an applicant for licensure under this section to pass an oral examination on psychological practice, ethical principles, and the law. The oral examination shall be conducted by an examination team that is designated by the board and that consists of at least one (1) licensed psychologist and either one (1) certified psychologist with autonomous functioning or one (1) licensed psychological*

practitioner. The oral examination shall be evaluated using the same criteria as the oral examination for licensed psychologist candidates.

- (5) *The applicant may continue to function under the supervision of a board-approved licensed psychologist until the applicant successfully completes the requirements for licensure as a licensed psychological practitioner.*
- (6) *The board shall grade and keep the examinations and results on file for one (1) year. Upon written request to the board, an applicant may arrange to discuss his or her performance on the examinations.*
- (7) *Upon successful completion of all requirements, the board shall issue to the applicant a license to perform certain functions within the practice of psychology without supervision and to use the title "licensed psychological practitioner".*
- (8) *The licensee under this section shall not supervise certified psychologists, licensed psychological practitioners, or licensed psychological associates.*

Section 9. KRS 319.056 is amended to read as follows:

- (1) A person currently authorized to use the title "certified psychologist with autonomous functioning" may continue to function *with that title or may choose to permanently change this title to "licensed psychological practitioner", and notify the board of this choice. The board shall issue a license at the time of renewal to the credential holder with the title of choice.*
- (2) *A certified psychologist with autonomous functioning or a licensed psychological practitioner may continue to function* without supervision ~~in the area specified on the certificate,~~ unless the board revokes his *or her* ~~license~~~~certificate~~ pursuant to KRS 319.082.~~;~~
- ~~(2) A certified psychologist who has been granted autonomous functioning may function without supervision in areas in which he is certified.~~ He *or she* shall not supervise certified psychologists, *licensed psychological practitioners, or licensed* psychological associates.
- (3) A person currently authorized to use the title "certified psychologist" may continue to function *with that title or may choose to permanently change this title to "licensed psychological associate" and notify the board of this choice. The board shall issue a license at the time of renewal to the credential holder with the title of choice.*
- (4) *A certified psychologist or a licensed psychological associate may continue to function* under the supervision of a licensed psychologist ~~in the area specified on the certificate,~~ unless the board revokes his certificate pursuant to KRS 319.082.
- ~~(5)(4)~~ A certified psychologist, *whether functioning under that title or as a licensed psychological associate,* may perform certain functions within the practice of psychology only under the supervision of a licensed psychologist approved by the board, and shall not employ or supervise other certified psychologists, *licensed psychological practitioners, or licensed* psychological associates.

Section 10. KRS 319.064 is amended to read as follows:

- (1) *An individual credentialed as a psychological associate shall use the title "licensed psychological associate" and the board shall issue a license with that title at the time of renewal.*
- (2) For an individual with a master's degree in psychology, the board shall issue a ~~license~~~~certificate~~ to perform certain functions within the practice of psychology and to use the title "*licensed* psychological associate" to any applicant who:
 - (a) Pays a fee not to exceed three hundred dollars (\$300);
 - (b) Has received a master's degree in psychology acceptable to the board from a regionally accredited educational institution or from an educational institution outside the United States, if such educational institution would otherwise be accredited by a regional accrediting body if located in the United States; and
 - (c) Has passed an examination procedure in psychology.
- ~~(3)(2)~~ Upon acceptance of the application to sit for the examination in psychology, the applicant may practice psychology under the supervision of a licensed psychologist under conditions of temporary ~~licensure~~~~certification~~ established by the board. *The board shall establish a grace period not to exceed sixty*

(60) days to allow for the employment and supervision of the applicant by an agency from the time the applicant's degree requirements are completed to the submission of the complete application.

(4)(3) The board shall grade and keep the examinations **and results** for ~~at least~~ one (1) year. ~~Any unsuccessful applicant may,~~ Upon written request to the board, **an applicant may** arrange to discuss his **or her** performance on the examination.

(5)(4) Any psychological associate **licensed** ~~certified~~ pursuant to this section may perform certain functions within the practice of psychology only under the supervision of a licensed psychologist approved by the board. The **licensed** psychological associate shall not practice independently, except under the employment and supervision of the board-approved licensed psychologist. A **licensed** psychological associate shall not represent himself **or herself** as a licensed or certified psychologist **or as a licensed psychological practitioner**. A **licensed** psychological associate shall not employ or supervise certified psychologists, **licensed psychological practitioners**, or **licensed** psychological associates.

Section 11. KRS 319.071 is amended to read as follows:

- (1) Licenses ~~and certificates~~ must be renewed every three (3) years on or before the anniversary date of issue or renewal. **Credential** ~~License and certificate~~ holders shall pay to the board a renewal fee not to exceed one hundred dollars (\$100) and shall receive a renewal license ~~or certificate~~. The board shall cancel a license ~~or certificate~~ not renewed within three (3) months of the renewal date, but the board may reinstate any canceled license ~~or certificate~~ upon payment of the renewal fee and a penalty not to exceed the amount of the renewal fee within three (3) years after cancellation. A **credential** ~~licensee or certificate~~ holder whose license ~~or certificate~~ has been canceled shall not practice psychology until the license ~~or certificate~~ has been restored.
- (2) Any **credential** ~~licensee or certificate~~ holder who has failed to renew his **or her** license ~~or certificate~~ or has been inactive for three (3) or more years may renew his **or her** license ~~or certificate~~ only upon passing an examination procedure and paying the renewal and penalty fees.
- (3) Upon petition to the board, **credential** ~~licensees or certificate~~ holders may be granted inactive status for a period of time not to exceed three (3) consecutive years. **Credential** ~~Licensees and certificate~~ holders shall not practice psychology while under inactive status and **certified psychologists and licensed psychological associates** ~~certificate holders~~ need not be supervised by a licensed psychologist. Inactive **credential** ~~licensees or certificate~~ holders may apply for active licenses ~~or certificates~~ as provided for by regulation of the board.

Section 12. KRS 319.082 is amended to read as follows:

- (1) The board may suspend, revoke, or refuse to issue or renew a license; ~~or certificate, or~~ may accept an assurance of voluntary compliance; ~~it~~ restrict, or place a **credential** ~~licensee or certificate~~ holder on probation; **or issue an administrative reprimand or private admonishment** ~~it~~ upon proof that the **credential** ~~licensee or certificate~~ holder has:
 - (a) Committed any act involving moral turpitude, dishonesty, or corruption, relating to the practice of psychology, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of such a crime, the judgment and sentence is presumptive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant of the crime described in the indictment or information and of the person's violation of the statute on which it is based. For the purpose of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended;
 - (b) Misrepresented or concealed a material fact in obtaining a license ~~or certificate~~, or in reinstatement thereof;
 - (c) Committed any unfair, false, misleading, or deceptive act or practice;
 - (d) Been incompetent or negligent in the practice of psychology;
 - (e) Practiced psychology while under the suspension, revocation, or restriction of the individual's license to practice by competent authority in any state, federal, or foreign jurisdiction;
 - (f) Violated any state statute or administrative regulation governing the practice of psychology;
 - (g) Unlawfully failed to cooperate with the board by:

1. Not furnishing any papers or documents requested by the board;
 2. Not furnishing in writing a complete explanation covering the matter contained in the complaint filed with the board;
 3. Not appearing before the board at the time and place designated; or
 4. Not properly responding to subpoenas issued by the board;
- (h) Failed to comply with an order issued by the board or an assurance of voluntary compliance;
 - (i) Aided or abetted an unlicensed person to practice when a license or certificate is required;
 - (j) Grossly overcharged for professional services;
 - (k) Practiced beyond the scope~~[-of practice]~~ **demonstrated by an appropriate combination of knowledge, skill, experience, training, and education**~~[-defined in the speciality area of examination]~~;
 - (l) Failed to provide adequate supervision for certified psychologists, **licensed** psychological associates, applicants for licensure~~[-or certification]~~, or other staff;
 - (m) Been convicted of any misdemeanor or felony relating to the practice of psychology. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended;
 - (n) Physically abused or had sexual contact with a patient, client, student, or supervisee;
 - (o) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a client, patient, or student, or a felony offense under KRS Chapter 510, 530.064, or 531.310, or been found by the board to have had sexual contact as defined in KRS 510.010 with a client, patient, student, or supervisee;
 - (p) Improperly divulged confidential information;
 - (q) Exercised undue influence in such a manner as to exploit the client, patient, student, or supervisee for financial or other personal advantage to the practitioner or a third party;
 - (r) Showed an inability to practice psychology with reasonable skill and safety to patients or clients by reason of illness, misuse of drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any mental or physical condition; or
 - (s) Failed to comply with the requirements of the board for continuing education.
- (2) ***Private admonishment shall not be subject to disclosure to the public under KRS 61.878(1)(l) and shall not constitute disciplinary action, but may be used by the board for statistical purposes or in subsequent disciplinary action against the credential holder or applicant.***
- (3) No unlawful act or violation of any provision of this chapter by any **credential**~~[-certificate]~~ holder employed or supervised by a licensed psychologist shall be cause for the revocation of the supervisor's license, unless the board finds that the licensed psychologist had knowledge of it.
- ~~(4)~~~~(3)~~ Three (3) years from the date of a revocation, any person whose license~~[-or certificate]~~ has been revoked may petition the board for reinstatement. The board shall investigate his **or her** petition and may reinstate his **or her** license~~[-or certificate]~~ upon finding that the former **licensee**~~[-holder]~~ has complied with the provisions of this chapter and administrative regulations promulgated by the board and is again able to engage in the practice of psychology with reasonable skill, competency and safety to the public.
- ~~(5)~~~~(4)~~ The board may, at its own discretion, reconsider, modify, or reverse its probations, suspensions, revocations, restrictions, or refusals to issue or renew licenses~~[-or certificates]~~ at any time.
- Section 13. KRS 319.092 is amended to read as follows:
- (1) In every proceeding for probation, suspension, or revocation of a license~~[-or certificate]~~, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. The board or a hearing officer appointed by the board shall conduct the hearing.
 - (2) All decisions revoking or suspending a license~~[-or certificate]~~ or placing a **credential**~~[-licensee or certificate]~~ holder on probation shall be made by the board.

- (3) If, after a hearing, a majority of the board finds that a **credential holder**~~[psychologist]~~ has violated any provision of this chapter, the board may:
- (a) Revoke or suspend the license~~[or certificate]~~;
 - (b) Impose a monetary penalty not to exceed two thousand dollars (\$2,000) per violation;
 - (c) Revoke or suspend the license~~[or certificate]~~ or impose a monetary penalty, but suspend enforcement thereof by placing the **credential holder**~~[psychologist]~~ on probation, which shall be revocable if the board finds the conditions of the probation order are not being followed by the **credential holder**~~[psychologist]~~;
 - (d) Require the **credential holder**~~[psychologist]~~, as a condition of probation, to submit to care, counseling, or treatment by a professional designated by the board, or require the **credential holder**~~[psychologist]~~ to be supervised by a licensed psychologist designated by the board. The expense of this action shall be borne by the **credential holder**~~[psychologist]~~ on probation;
 - (e) Modify the conditions of the probation, with good cause, and may include among them any reasonable condition for the purpose of the protection of the public, or for the purpose of the rehabilitation of the probationer, or both;
 - (f) Require restitution; and
 - (g) Assess the costs of the disciplinary proceeding.
- (4) If the board substantiates that sexual contact occurred between a **credential**~~[licensee or certificate]~~ holder and a patient while the patient was under the care or in a professional relationship with the **credential**~~[licensee or certificate]~~ holder, the **credential**~~[licensee's or certificate]~~ holder's license~~[or certificate]~~ may be revoked or suspended with mandatory treatment of that individual as prescribed by the board. The board may require the **credential**~~[licensee or certificate]~~ holder to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.
- (5) Final orders of the board suspending or revoking a license~~[or certificate]~~ or placing a **credential**~~[licensee or certificate]~~ holder on probation shall become effective immediately after written notice is served on the **credential**~~[licensee or certificate]~~ holder and the **credential**~~[licensee or certificate]~~ holder shall not, after notice of same, engage or continue to engage in the practice of psychology unless the board's final order is revoked or modified by the court after judicial review.
- (6) The board shall make public its final order in all disciplinary actions.
- (7) Any person aggrieved by a final order of the board may appeal to the Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 14. KRS 319.118 is amended to read as follows:

- (1) Members of the board, its agents and employees shall be immune from personal liability in any action, civil or criminal, which is based upon any official act or acts performed by them in good faith.
- (2) Notwithstanding the existence or pursuit of any other remedy, civil or criminal, the board may institute and maintain actions to restrain or enjoin any violation of this chapter, rules and administrative regulations, or order of the board.
- (3) The surrender of a license~~[or certificate]~~ shall not serve to deprive the board of jurisdiction to proceed with disciplinary actions pursuant to this chapter.
- (4) The city, county, Commonwealth's attorney, and the Attorney General shall within their respective jurisdictions and within their legal discretion represent the board, its agents, and employees, in the enforcement of the provisions of this chapter and the rules and administrative regulations of the board.

Section 15. KRS 319.990 is amended to read as follows:

- (1) Any person who violates **Section 1 of this Act**~~[any of the provisions of this chapter]~~ shall be guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment for not more than six (6) months, or by a fine of not more than five hundred dollars (\$500), or by both fine and imprisonment, and each violation shall be deemed a separate offense.

- (2) Either the Attorney General or the appropriate Commonwealth's or county attorney shall have the authority to prosecute violations of KRS 319.005~~[to 319.111]~~.
- (3) *The board may recover the costs of investigative expenses including reasonable attorney fees relating to the prosecution of those found guilty of violating Section 1 of this Act.*

Section 16. KRS 335.530 is amended to read as follows:

~~[(1) Until January 1, 1998, an applicant for certification as a certified professional counselor pursuant to the provisions of KRS 335.500 to 335.599 whose master's or doctoral degree in counseling was granted on or after July 1, 1986, shall meet the requirements of KRS 335.525 except for the examination requirement set out in KRS 335.525(1)(f).~~

~~(2)~~ Until January 1, **2002**~~[1998]~~, an applicant for certification as a certified professional counselor pursuant to the provisions of KRS 335.500 to 335.599 whose master's or doctoral degree in counseling was granted~~[prior to July 1, 1986]~~ shall meet the requirements set out in KRS 335.525, but shall be exempt from meeting one (1) of the following:

- ~~(1)(a)~~ The examination requirement set out in subsection (1)(f) of that section; or
- ~~(2)(b)~~ The required hours of supervised experience in the practice of counseling set out in KRS 335.525(1)(e).

Approved March 15, 2001

CHAPTER 81

(SB 84)

AN ACT relating to reorganization.

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

Section 1. KRS 194A.709 is amended to read as follows:

- (1) The office shall report to the Division of **Long Term Care**~~[Licensing and Regulation]~~ any alleged or actual cases of health services being delivered by the staff of an assisted-living community.
- (2) An assisted-living community shall have written policies on reporting and recordkeeping of alleged or actual cases of abuse, neglect, or exploitation of an adult under KRS 209.030.
- (3) Any assisted-living community staff member who has reasonable cause to suspect that a client has suffered abuse, neglect, or exploitation shall report the abuse, neglect, or exploitation under KRS 209.030.

Section 2. KRS 199.8994 is amended to read as follows:

- (1) All child-day-care funds administered by the cabinet, including Title XX of the Social Security Act, shall be administered by the Cabinet for Families and Children to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served. To the extent permitted by federal law or regulations, requirements relating to application, eligibility, provider agreements, and payment for child-care services shall be the same regardless of the source of public funding.
- (2) The cabinet shall, to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served, develop a system which provides a single intake point in each county through which parents seeking public subsidies for child-care services can make application.
- (3) The cabinet shall, subject to the extent funds are available, cooperate with the Cabinet for Health Services to fund and establish dedicated child-care licensing surveyor positions within the Division of **Licensed Child Care**~~[Licensing and Regulation]~~ to conduct all the cabinet's child-care licensing activities. The cabinet shall have the authority to request the transfer of funds to establish these positions. Where possible, dedicated child-care surveyors shall have expertise or experience in child-care or early childhood education.
- (4) The targeted ratio of dedicated child-care licensing surveyor positions shall be one (1) surveyor for each fifty (50) child-care facilities in order to allow for the provision of an expedient, constructive, and thorough licensing visit.
- (5) The cabinet shall, in cooperation with the Division of **Licensed Child Care**~~[Licensing and Regulation]~~, Cabinet for Health Services, provide appropriate specialized training for child-care surveyors.

- (6) (a) The cabinet shall evaluate ways to improve the monitoring of unregulated child-care providers that receive a public subsidy for child care, and promulgate administrative regulations in accordance with KRS Chapter 13A that establish minimum health and safety standards, limitations on the maximum number of children in care, training requirements for a child-care provider that receives a child-care subsidy administered by the cabinet, and criteria for the denial of subsidies if criminal records indicate convictions that impact the safety and security of children in care.
- (b) If the cabinet has probable cause to believe that there is an immediate threat to the public health, safety, or welfare, it may take emergency action to deny a public subsidy for child-care services under KRS 13B.125.

Section 3. KRS 209.005 is amended to read as follows:

- (1) The Cabinet for Families and Children shall create an Elder Abuse Committee to develop a model protocol on elder abuse and neglect in the Commonwealth, that shall be comprised of various state agency representatives from the following list:
 - (a) The Department for Community Based Services;
 - (b) The Department for Public Health;
 - (c) The Department for Mental Health and Mental Retardation;
 - (d) The Office of Aging Services;
 - (e) The Division of ***Long Term Care***~~[Licensing and Regulation]~~;
 - (f) The Office of the Ombudsman; and
 - (g) Area Agencies on Aging.
- (2) The committee shall address issues of prevention, intervention, and agency coordination of services on a state and local level through interaction with local groups or entities that either directly or indirectly provide services to the elder population, including, but not limited to:
 - (a) Senior citizen centers;
 - (b) Local governmental human service groups;
 - (c) The Sanders-Brown Center on Aging at the University of Kentucky;
 - (d) Long Term Care Ombudsmen; and
 - (e) Other organizations or associations dedicated to serving elder citizens and their families in the Commonwealth.
- (3) The committee shall:
 - (a) Explore the need for a comprehensive statewide resource directory of services for the elderly;
 - (b) Enhance existing public awareness campaigns for elder abuse and neglect; and
 - (c) Provide forums for the exchange of information to educate the elder population and their families on the rights of elders.
- (4) The committee shall produce an annual report of their activities, products, and recommendations for public policy to the Governor and the Legislative Research Commission.

Section 4. KRS 210.271 is amended to read as follows:

- (1) No patient in an institution for the mentally ill or the mentally retarded operated by the Cabinet for Health Services shall be discharged to a boarding home as defined in KRS 216B.300 unless the boarding home is registered pursuant to KRS 216B.305.
- (2) The cabinet shall conduct a quarterly follow-up visit, using cabinet personnel or through contract with the Regional Community Mental Health Centers, of all patients of state mental health or mental retardation facilities that are discharged to boarding homes. Any resident found to have needs that cannot be met by the boarding home shall be referred to the Department for Community Based Services for appropriate placement.

Any boarding home suspected of operating as an unlicensed personal care facility or housing residents with needs that cannot be met by the boarding home shall be reported to the Division of ***Community Health Services***~~[Licensing and Regulation]~~ for investigation.

Section 5. KRS 216.583 is amended to read as follows:

The Long-Term Care Coordinating Council shall be composed of the following members from within the cabinet: the commissioner of the Department for Public Health; the commissioner of the Department for Mental Health and Mental Retardation Services; the inspector general; the director of the Division of ***Long Term Care***~~[for Licensing and Regulation]~~; the executive director of the Office of Aging Services; the commissioner of the Department for Medicaid Services; the general counsel; and the long-term care ombudsman.

Section 6. KRS 216.860 is amended to read as follows:

As used in KRS 216.865:

- (1) "Division" means the Division of ***Community Health Services***~~[Licensing and Regulation]~~ within the Cabinet for Health Services;
- (2) "Cabinet" means the Cabinet for Health Services;
- (3) "Secretary" means the secretary for health services; and
- (4) "Nursing pools" means any person, firm, corporation, partnership, or association engaged for hire in the business of providing or procuring temporary employment in health-care facilities for medical personnel including, but not limited to, nurses, nursing assistants, nurses' aides, and orderlies. For purposes of KRS 216.865, nursing registries shall be considered to be nursing pools. Excluded from this definition are any health-facility-based or in-house pools established to provide services within the confines of such facility or business, any person who only engages in providing his or her own services on a temporary basis to health-care facilities, and home-health agencies licensed pursuant to KRS Chapter 216B which provide or procure temporary employment in health-care facilities for medical personnel.

Section 7. KRS 216.865 is amended to read as follows:

- (1) No nursing pool shall be operated, maintained, or advertised without obtaining a license as provided in this section.
- (2) The secretary shall adopt administrative regulations relating to license fees, standards of care and service, and procedures for enforcement of penalties.
- (3) The established standards of care and services shall at a minimum include:
 - (a) Written policies and procedures which must be maintained by each nursing pool;
 - (b) Records which must be maintained to assure that the criteria promulgated by administrative regulations are being met;
 - (c) Personnel policies which shall be developed and which shall include at a minimum: a personal interview, thorough reference check, annual evaluation of employees based on questionnaires developed and sent to hospitals, nursing homes, and other facilities to which medical personnel are sent.
- (4) Upon employment or contract with a nursing pool, all medical personnel working in health care facilities shall be required to provide the following: a current negative tuberculin skin test or chest X-ray, a current license or certificate, where applicable, and a current cardiopulmonary resuscitation certification. Further, all medical personnel shall attend an annual infection control in-service and an annual safety in-service.
- (5) Only those nursing pools meeting the standards prescribed for licensure by the secretary may be granted a license.
- (6) Each application for a license shall be made to the Division of ***Community Health Services***~~[Licensing and Regulation]~~ and shall be accompanied by a fee prescribed by the secretary and shall be renewed annually upon expiration and reapplication when accompanied by an additional fee. Licenses and renewals thereof shall expire one (1) year from their effective date.
- (7) Any license or application affected by an adverse determination by the division or the secretary shall have the same rights of appeal as set forth in KRS 216.567.

- (8) All fees collected under the provisions of this section shall be paid into the State Treasury and credited to a fund for the purposes of funding the division.
- (9) All inspections of nursing pools by the division shall be unannounced.

Section 8. The General Assembly hereby confirms Executive Order 2000-1104, dated August 23, 2000, which abolishes the Division of Licensing and Regulation and creates the following: 1) Division of Long Term Care; 2) Division of Licensed Child Care; and 3) Division of Community Health Services, to the extent it is not otherwise confirmed or superseded by this Act.

Approved March 15, 2001

CHAPTER 82

(HJR 33)

A JOINT RESOLUTION naming the "Geiman Connector" in Campbell County.

WHEREAS, the Geiman family has been a fixture in the life of Campbell County for decades; and

WHEREAS, the Geiman family first emigrated to the United States in 1835; and

WHEREAS, Joseph Geiman and Rosa Keller were married in 1909 and started a family, constructing a huge stone house on Pooles Creek Road #1 that stands today and saw the birth of 14 children; and

WHEREAS, in Northern Kentucky, the words "Pooles Creek" are synonymous with the Geiman Family, evoking images of the hand-hewn stone Geiman homestead and thoughts of the over 500 descendants of Joseph and Rosa Geiman; and

WHEREAS, five of Joseph Geiman's sons apprenticed into the building trades, continuing a legacy and furthering a tradition of quality craftsmanship in stonework that is unsurpassed by any other builder in the area; and

WHEREAS, the Geiman family home building business, Geiman Stone and Craftsmanship, has literally provided the foundation for countless homes in the area; and

WHEREAS, the Geiman family was recently dealt a heartbreaking blow when Rose and Jim Geiman's sixteen-year old son Jimmy, brother of Andy, brother of Jill, was killed in a tragic automobile accident on Pooles Creek Road #1, just blocks from his home, on November 26, 2000; and

WHEREAS, Jimmy Geiman was a beloved friend to his classmates at Campbell County High School, who treasured his sense of humor and sensitivity; and

WHEREAS, Jimmy Geiman was dedicated to the sport of football, having received a "Coach's Choice" award for his inspired play this season for the Campbell County High School Camels; and

WHEREAS, The Geiman family's life is firmly rooted in a deep and abiding love of God and of the good news of His Son, Jesus Christ, a love shared by the entire Geiman family, members who have been active in their church, the VA, community activities, and service to their country during times of peril; and

WHEREAS, the entire Geiman family desperately wishes that Jimmy's tragic death will serve as a stark lesson in the importance of wearing seat belts, regardless of the duration of the trip or the proximity to home, because the simple act of buckling a seat belt may save the life of you or your dearest loved ones;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name Kentucky Route 1998 from United States Route 27 to Kentucky Route 9, also known as Pooles Creek Road #1, the "Geiman Connector."

Section 2. The Transportation Cabinet shall erect signs identifying the "Geiman Connector" within thirty (30) days of the effective date of this Resolution at appropriate intervals along the route specified in Section 1 of this Resolution.

Approved March 15, 2001

CHAPTER 83**(SB 63)**

AN ACT relating to the reorganization of the Commission on Fire Protection Personnel Standards and Education.

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

Section 1. The General Assembly hereby confirms Executive Order 2000-988, issued by the Governor on July 25, 2000, which transferred the Commission on Fire Protection Personnel Standards and Education from the Department of Housing, Buildings and Construction to the Kentucky Community and Technical College System, and abolished the Fire Department Aid Section in Branch C, Division of Fire Prevention, Department of Housing, Buildings and Construction, Cabinet for Public Protection and Regulation.

Approved March 15, 2001

CHAPTER 84**(HJR 91)**

A JOINT RESOLUTION naming the "Julian M. Carroll Bridge" in Franklin County.

WHEREAS, Julian Morton Carroll was born in McCracken County, Kentucky on April 16, 1931, the son of Elvie "Buster" Carroll and Eva Heady Carroll; and

WHEREAS, Julian Carroll graduated from Heath High School, where he served as student body president; and

WHEREAS, in 1951, Julian Carroll married Charlann Harding, starting on a remarkable life's journey together that has endured for a half a century; and

WHEREAS, Julian Carroll is the proud father of four children: Kenneth, Patrice, Brad, and Elly; and

WHEREAS, Julian Carroll attended the University of Kentucky, receiving a B. A. in Political Science in 1954 and a law degree in 1956 from that institution; and

WHEREAS, after service in the United States Air Force, Julian Carroll returned home to Paducah to establish a law practice; and

WHEREAS, Julian Carroll's activity in the Cumberland Presbyterian Church gained him renown as a lay speaker for churches of all denominations; and

WHEREAS, Julian Carroll achieved the highest office for Kentucky laymen of the Cumberland Presbyterian Church when he was named moderator of the Kentucky Synod in 1966; and

WHEREAS, Julian Carroll's deep and abiding religious faith served as a steady anchor throughout his many years of public service; and

WHEREAS, Julian Carroll first entered politics in 1961, when he was elected to the House of Representatives from McCracken County at the age of 29; and

WHEREAS, Julian Carroll served ten years in the Kentucky House of Representatives, and was Speaker of the House from 1968 to 1971; and

WHEREAS, Julian Carroll was elected Lieutenant Governor of Kentucky in 1971, serving in that post until December 28th, 1974, when he was inaugurated as Kentucky's 54th Governor, filling the remainder of the term of Governor Wendell Ford; and

WHEREAS, Julian Carroll won re-election to the Governor's office in 1975 and served as Governor until 1979; and

WHEREAS, Julian Carroll's tenure as Governor was marked by great strides in the funding of elementary and secondary education, including the elimination of fees for required classes and the institution of free textbooks for grades K through 12 and the establishment of a School Building Authority to help poor districts build schools; and

WHEREAS, Julian Carroll's performance as Governor was lauded by many, including the Louisville Courier-Journal, which stated: "Kentucky is better for Julian Carroll's having been Governor. Of that we feel confident"; and

WHEREAS, since leaving office, Julian Carroll has remained a force in the political, civic, and spiritual life of the Commonwealth; and

WHEREAS, it is appropriate that the Commonwealth honor Julian Carroll, a true gentleman, a Kentuckian who has served his Commonwealth with duty and honor;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name the bridge on Kentucky Route 676 (the East-West Connector) over the Kentucky River the "Julian M. Carroll Bridge."

Section 2. The Transportation Cabinet shall erect signs identifying the "Julian M. Carroll Bridge" within thirty (30) days of the effective date of this Resolution at each end of the bridge specified in Section 1 of this Resolution.

Approved March 15, 2001

CHAPTER 85

(HCR 47)

A CONCURRENT RESOLUTION confirming the appointment of Howard "Eddie" Sellers III to the Kentucky Agricultural Development Board.

WHEREAS, KRS 248.707 requires the Governor to appoint members to the Agricultural Development Board subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on July 6, 2000, by Executive Order 2000-875, the Governor appointed Howard "Eddie" Sellers III to the Agricultural Development Board for a term expiring July 6, 2004; and

WHEREAS, Howard "Eddie" Sellers III meets the requirements of KRS 248.707, being an active farmer and from a county where tobacco income is a substantial proportion of total personal income in the county, who has experience in agricultural diversification, and who otherwise meets the requirements of KRS 11.160;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. Consent is given to the appointment of Howard "Eddie" Sellers III to the Agricultural Development Board for a term to expire on July 6, 2004.

Section 2. The Clerk of the House of Representatives shall forward a copy of this resolution and notification of its adoption to Howard "Eddie" Sellers III, 1230 Troy Pike, Versailles, Kentucky 40383 and to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

Approved March 15, 2001

CHAPTER 86

(HCR 48)

A CONCURRENT RESOLUTION confirming the appointment of Willa H. Poynter to the Kentucky Agricultural Development Board.

WHEREAS, KRS 248.707 requires the Governor to appoint members to the Agricultural Development Board subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on July 6, 2000, by Executive Order 2000-875, the Governor appointed Willa H. Poynter to the Agricultural Development Board for a term expiring July 6, 2001; and

WHEREAS, Willa H. Poyntner meets the requirements of KRS 248.707, being an active farmer and from a county where tobacco income is a substantial proportion of total personal income in the county and who otherwise meets the requirements of KRS 11.160;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. Consent is given to the appointment of Willa H. Poyntner to the Agricultural Development Board for a term to expire on July 6, 2001.

Section 2. The Clerk of the House of Representatives shall forward a copy of this resolution and notification of its adoption to Willa H. Poyntner, 7229 Taylor Mill Road, Maysville, Kentucky 41056 and to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

Approved March 15, 2001

CHAPTER 87

(HCR 50)

A CONCURRENT RESOLUTION confirming the appointment of Daniel C. Case to the Kentucky Agricultural Development Board.

WHEREAS, KRS 248.707 requires the Governor to appoint members to the Agricultural Development Board subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on July 6, 2000, by Executive Order 2000-875, the Governor appointed Daniel C. Case to the Agricultural Development Board for a term expiring July 6, 2002; and

WHEREAS, Daniel C. Case meets the requirements of KRS 248.707, being an agricultural lender who otherwise meets the requirements of KRS 11.160;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. Consent is given to the appointment of Daniel C. Case to the Agricultural Development Board for a term to expire on July 6, 2002.

Section 2. The Clerk of the House of Representatives shall forward a copy of this resolution and notification of its adoption to Daniel C. Case, Route 1, Box 27A, Mount Olivet, Kentucky 41064 and to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

Approved March 15, 2001

CHAPTER 88

(HCR 67)

A CONCURRENT RESOLUTION establishing a task force on services and supports for individuals with acquired brain injuries.

WHEREAS, it is estimated that each year thousands of Kentuckians suffer from acquired brain injuries; and the physical, emotional, vocational, and rehabilitative needs of individuals with acquired brain injuries are complex and may involve a combination of issues and services, such as health care, employment, substance abuse, mental health, physical and sexual abuse, criminal behavior, emotional disabilities, developmental and learning disabilities, and behavior disorders; and

WHEREAS, there is a lack of public and professional recognition of acquired brain injury as a mental health condition; and

WHEREAS, individuals with acquired brain injuries and their families can plan fulfilling lives but may need life-long supports and services; and

WHEREAS, existing services are limited and unavailable in many areas of the state and do not provide life-long supports and services; and

WHEREAS, in this Commonwealth there are no intensive, inpatient services for adults with acquired brain injuries who are in need of specialized crisis stabilization, evaluation, and treatment; and

WHEREAS, the lack of services and supports, including treatment for behavior disorders may result in the arrest and incarceration of individuals with acquired brain injuries; and

WHEREAS, the provision of the appropriate level of care, treatment, and services is in the best interests of the individuals with acquired brain injuries, their families, their employers, their communities and the Commonwealth at large;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. There shall be created a Task Force on Services and Supports for Individuals with Acquired Brain Injuries. The task force shall be charged to make recommendations regarding:

- (1) Mechanisms to make a more accurate assessment of the number of adults and children with acquired brain injuries that receive publicly funded services;
- (2) Changes to existing administrative regulations governing existing publicly funded programs that would increase access to existing services and supports for individuals with acquired brain injuries;
- (3) The elimination of barriers to the access to and provision of services;
- (4) Strategies to develop intensive inpatient services that provide crisis stabilization, specialized evaluation, and treatment for adults with acquired brain injuries;
- (5) Strategies for the decriminalization of individuals with acquired brain injuries; and
- (6) Strategies to increase the employment of, vocational training and educational services to, and case management services for individuals with acquired brain injuries.

Section 2. The members of the task force shall include:

- (1) One (1) member of the House of Representatives who shall serve as co-chair, appointed by the Speaker of the House;
- (2) One (1) member of the Senate who shall serve as co-chair, appointed by the President of the Senate;
- (3) One (1) individual with acquired brain injury and one (1) family member of an individual with acquired brain injury appointed by the Legislative Research Commission from two separate lists of three (3) names submitted by the Brain Injury Association of Kentucky;
- (4) The chair of the Traumatic Brain Injury Trust Fund Board or the chair's designee;
- (5) The executive director of the Brain Injury Association of Kentucky or the executive director's designee;
- (6) The executive director of the Kentucky Hospital Association or the executive director's designee;
- (7) The commissioner of the Department of Vocational Rehabilitation or designee;
- (8) The secretary of the Justice Cabinet or the secretary's designee;
- (9) The president of the Kentucky Jailers Association or the president's designee;
- (10) The commissioner of the Department for Medicaid Services or designee;
- (11) The commissioner of the Department for Mental Health and Mental Retardation Services who shall also recommend one (1) representative from the Division of Substance Abuse, one (1) representative from the Division of Mental Retardation and Developmental Disabilities, and two (2) representatives from the Division of Mental Health, one of whom shall be a representative from the Brain Injury Services Unit of the Division of Mental Health for appointment by the Legislative Research Commission; and

(12) One (1) representative from the Kentucky Association of Regional Programs and one (1) case manager with experience in the provision of community-based services to individuals with acquired brain injuries recommended by the secretary of the Cabinet for Health Services for appointment by the Legislative Research Commission.

Section 3. The task force shall make a final report of its findings and specific legislative recommendations to the Legislative Research Commission and the Governor no later than July 1, 2002.

Section 4. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternately assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Approved March 15, 2001

CHAPTER 89

(HCR 52)

A CONCURRENT RESOLUTION confirming the appointment of Sam Moore to the Kentucky Agricultural Development Board.

WHEREAS, KRS 248.707 requires the Governor to appoint members to the Agricultural Development Board subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on July 6, 2000, by Executive Order 2000-875, the Governor appointed Sam Moore to the Agricultural Development Board for a term expiring July 6, 2001; and

WHEREAS, Sam Moore meets the requirements of KRS 248.707, being a representative of the Kentucky Farm Bureau and who otherwise meets the requirements of KRS 11.160;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. Consent is given to the appointment of Sam Moore to the Agricultural Development Board for a term to expire on July 6, 2001.

Section 2. The Clerk of the House of Representatives shall forward a copy of this resolution and notification of its adoption to Sam Moore, 1070 Mooretown Road, Morgantown, Kentucky 42261 and to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

Approved March 15, 2001

CHAPTER 90

(HCR 53)

A CONCURRENT RESOLUTION confirming the appointment of Michael L. Slaughter to the Kentucky Agricultural Development Board.

WHEREAS, KRS 248.707 requires the Governor to appoint members to the Agricultural Development Board subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on July 6, 2000, by Executive Order 2000-875, the Governor appointed Michael L. Slaughter to the Agricultural Development Board for a term expiring July 6, 2004; and

WHEREAS, Michael L. Slaughter meets the requirements of KRS 248.707, being an active farmer and from a county where tobacco income is a substantial proportion of total personal income in the county and who otherwise meets the requirements of KRS 11.160;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. Consent is given to the appointment of Michael L. Slaughter to the Agricultural Development Board for a term to expire on July 6, 2004.

Section 2. The Clerk of the House of Representatives shall forward a copy of this resolution and notification of its adoption to Michael L. Slaughter, 1451 Uno-Horse Cave Road, Horse Cave, Kentucky 42749 and to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

Approved March 15, 2001

CHAPTER 91

(HCR 55)

A CONCURRENT RESOLUTION confirming the appointment of Sam Lawson to the Kentucky Agricultural Development Board.

WHEREAS, KRS 248.707 requires the Governor to appoint members to the Agricultural Development Board subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on July 6, 2000, by Executive Order 2000-875, the Governor appointed Sam Lawson to the Agricultural Development Board for a term expiring July 6, 2003; and

WHEREAS, Sam Lawson meets the requirements of KRS 248.707, being a member of the Kentucky Chamber of Commerce, who is an agribusiness person, and who otherwise meets the requirements of KRS 11.160;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. Consent is given to the appointment of Sam Lawson to the Agricultural Development Board for a term to expire on July 6, 2003.

Section 2. The Clerk of the House of Representatives shall forward a copy of this resolution and notification of its adoption to Sam Lawson, 395 Briggs Hill, Bowling Green, Kentucky 42101 and to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

Approved March 15, 2001

CHAPTER 92

(HJR 81)

A JOINT RESOLUTION naming the "Trooper Johnny Edrington Memorial Highway" in Taylor County.

WHEREAS, Johnny Edrington was born on September 7, 1954, the son of Jack Edrington and the late Patty Madsen Edrington; and

WHEREAS, Johnny Edrington was a native of Taylor County, graduated from Campbellsville High School, and attended Campbellsville College before joining the Army in 1973; and

WHEREAS, Johnny Edrington served his country in uniform as a military policeman and received an honorable discharge from the Army in 1976; and

WHEREAS, Johnny Edrington continued to protect and serve the citizens of Taylor County after returning home from military service, as a police officer with the Campbellsville and Taylor County Metro Police Departments; and

WHEREAS, Johnny Edrington, who had long admired the Kentucky State Police, fulfilled a dream when he joined their ranks and graduated from the State Police Academy in 1985; and

WHEREAS, Trooper Johnny Edrington's first assignment was to the London Post, an assignment he grew to love, turning down offers to transfer; and

WHEREAS, Trooper Johnny Edrington was held in the highest regard by his peers in the Kentucky State Police, who said of him: "He was the ideal trooper" and "You could depend on him in tight situations"; and

WHEREAS, Trooper Johnny Edrington received numerous commendations, including the State Police Meritorious Service Award in 1987, which he earned for stopping an armed fugitive who had killed a sheriff's deputy in Ohio; and

WHEREAS, Trooper Johnny Edrington, who served and protected the citizens of this Commonwealth until his last breath, was killed in the line of duty December 20, 1988, during a traffic stop in Laurel County, crossing that bourne from which no earthly traveler returns; and

WHEREAS, Johnny Edrington's death left an empty space in the hearts of his parents, his three sisters, his bride of five months, Diane, and the entire Taylor County community; and

WHEREAS, the "Thin Gray Line" of the Kentucky State Police remains mournful to this day over the senseless loss of their beloved comrade; and

WHEREAS, Johnny Edrington's wife, Diane, who was five months pregnant at the time of his death, later gave birth to his daughter, Johnna Callie Edrington, who was never rocked to sleep in her father's arms and to this day carries with her only pictures and stories of a father she has never known; and

WHEREAS, it is fitting and proper that we memorialize this valiant son of the Commonwealth, who gave his life in the service and protection of its citizens, no matter how insignificant our actions are in repayment for his heroism and bravery;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name the section of United States Route 68 which runs through Taylor County the "Trooper Johnny Edrington Memorial Highway."

Section 2. The Transportation Cabinet shall erect signs identifying the "Trooper Johnny Edrington Memorial Highway" within thirty days of the effective date of this Resolution at each end of the route specified in Section 1 of this Resolution, and at appropriate intervals in between.

Section 3. The Clerk of the House of Representatives shall transmit two copies of this Resolution to Chief William Cassell, Campbellsville Police Department, 100 Terri Street, Campbellsville, KY 42718, who shall then transmit one copy to Johnna Callie Edrington.

Approved March 15, 2001

CHAPTER 93

(HCR 42)

A CONCURRENT RESOLUTION urging Congress to direct that the 1999 burley tobacco forfeited to the Commodity Credit Corporation (CCC) under Pub. L. No. 106-387 be destroyed and not be sold for use in the United States or any foreign market.

WHEREAS, Congress, in an effort to protect burley farmers, enacted language in Pub. L. No. 106-387 (H.R. 4461 Sec. 844) that allowed producer-owned cooperative marketing associations to forfeit burley tobacco from the 1999 crop to the CCC to fully settle any loans against that crop; and

WHEREAS, the 1999 burley tobacco crop forfeited to the CCC contains approximately 230 million pounds (green weight) of inferior burley tobacco pool stocks; and

WHEREAS, Pub. L. No. 106-387 directs that the 1999 tobacco not be sold in the U.S., but does not specify that it not be sold overseas; and

WHEREAS, the overseas sale of the 1999 pool stocks at a reduced rate would have an adverse effect on the demand for U.S. burley by flooding foreign markets with an inferior grade of U.S. tobacco and by creating a devastating economic hardship on U.S. burley tobacco farmers; and

WHEREAS, destroying the pool stocks would result in a more balanced supply and demand market for U.S. burley tobacco and would benefit all burley tobacco farmers;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The General Assembly urges Congress to direct that the 1999 burley tobacco forfeited to the CCC in Pub. L. No. 106-387 be destroyed and not be allowed to be sold for use in the United States or any foreign market.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the members of the Kentucky delegation to Congress and to the Secretary of the United States Department of Agriculture.

Approved March 15, 2001

CHAPTER 94

(HJR 44)

A JOINT RESOLUTION honoring Arius Holbrook, Sr. of Mayking, Kentucky.

WHEREAS, Arius Holbrook, Sr., was born on March 17, 1923, and taken from his family and loved ones at the age of sixty in 1983; and

WHEREAS, Arius Holbrook, Sr., was a committed citizen of Mayking, Kentucky, and his absence has been sorely missed since he crossed that final bourne from which no traveller returns; and

WHEREAS, Arius Holbrook, Sr., was a dedicated employee of the Appalachian Regional Hospital for almost thirty years where he maintained the physical plant, as well as other maintenance needs of the hospital; and

WHEREAS, Arius Holbrook, Sr., was an Army Veteran of World War II and was an active member of his local VFW; and

WHEREAS, Arius Holbrook, Sr., was a devoted husband to his beloved wife Blanche and the proud father of five children;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the General Assembly, both individually and collectively, do hereby proclaim Arius Holbrook, Sr., to have been an outstanding Kentuckian and exemplary representative of the Commonwealth.

Section 2. The Transportation Cabinet is directed to name the bridge on United States Route 119 in Mayking, Kentucky, located near the Mayking Mall and the Mayking Fire Department "The Arius Holbrook, Sr., Memorial Bridge."

Section 3. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs at each approach to the bridge on United States Route 119 in Mayking, Kentucky, located near the Mayking Mall and the Mayking Fire Department that read "The Arius Holbrook, Sr., Memorial Bridge."

Approved March 15, 2001

CHAPTER 95

(SB 64)

AN ACT relating to exceptional children and youth.

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

Section 1. KRS 158.150 is amended to read as follows:

- (1) All pupils admitted to the common schools shall comply with the lawful regulations for the government of the schools:
 - (a) Willful disobedience or defiance of the authority of the teachers or administrators, use of profanity or vulgarity, assault or battery or abuse of other students, the threat of force or violence, the use or

possession of alcohol or drugs, stealing or destruction or defacing of school property or personal property of students, the carrying or use of weapons or dangerous instruments, or other incorrigible bad conduct on school property, as well as off school property at school-sponsored activities, constitutes cause for suspension or expulsion from school; and

- (b) Assault or battery or abuse of school personnel; stealing or willfully or wantonly defacing, destroying, or damaging the personal property of school personnel on school property, off school property, or at school-sponsored activities constitutes cause for suspension or expulsion from school.
- (2) Each local board of education shall adopt a policy requiring the expulsion from school for a period of not less than one (1) year for a student who is determined by the board to have brought a weapon to a school under its jurisdiction. The board shall also adopt a policy requiring disciplinary actions, up to and including expulsion from school, for a student who is determined by the board to have possessed prescription drugs or controlled substances for the purpose of sale or distribution at a school under the board's jurisdiction, or to have physically assaulted or battered or abused educational personnel or other students at a school or school function under the board's jurisdiction. The board may modify the expulsion requirement for students on a case-by-case basis. A board that has expelled a student from the student's regular school setting shall provide or assure that educational services are provided to the student in an appropriate alternative program or setting, unless the board has made a determination, on the record, supported by clear and convincing evidence, that the expelled student poses a threat to the safety of other students or school staff and cannot be placed into a state-funded agency program. Other intervention services as indicated for each student may be provided by the board or by agreement with the appropriate state or community agency. A state agency that provides the service shall be responsible for the cost. In determining whether a student has brought a weapon to school, a local board of education shall use the definition of "unlawful possession of a weapon on school property" stated in KRS 527.070.
- (3) School administrators, teachers, or other school personnel may immediately remove or cause to be removed threatening or violent students from a classroom setting or from the district transportation system pending any further disciplinary action that may occur. Each board of education shall adopt a policy to assure the implementation of this section and to assure the safety of the students and staff.
- (4) A pupil shall not be suspended from the common schools until after at least the following due process procedures have been provided:
 - (a) The pupil has been given oral or written notice of the charge or charges against him which constitute cause for suspension;
 - (b) The pupil has been given an explanation of the evidence of the charge or charges if the pupil denies them; and
 - (c) The pupil has been given an opportunity to present his own version of the facts relating to the charge or charges.

These due process procedures shall precede any suspension from the common schools unless immediate suspension is essential to protect persons or property or to avoid disruption of the ongoing academic process. In such cases, the due process procedures outlined above shall follow the suspension as soon as practicable, but no later than three (3) school days after the suspension.

- (5) The superintendent, principal, assistant principal, or head teacher of any school may suspend a pupil but shall report the action in writing immediately to the superintendent and to the parent, guardian, or other person having legal custody or control of the pupil. The board of education of any school district may expel any pupil for misconduct as defined in subsection (1) of this section, but the action shall not be taken until the parent, guardian, or other person having legal custody or control of the pupil has had an opportunity to have a hearing before the board. The decision of the board shall be final.
- (6) (a) Suspension of exceptional children, as defined in KRS 157.200, ***shall be considered a change of educational placement if:***
 - 1. ***The child is removed*** for more than ~~a total of~~ ten (10) ***consecutive*** days during a school year; ***or***
 - 2. ***The child is subjected to a series of removals that constitute a pattern because the removals accumulate to more than ten (10) school days during a school year and because of other***

factors, such as the length of each removal, the total amount of time the child is removed, and the proximity of removals to one another~~[shall constitute a change of educational placement]~~.

- (b) The admissions and release committee shall meet to review the placement and make a recommendation for continued placement or a change in placement and determine whether regular suspension or expulsion procedures apply. Additional evaluations shall be completed, if necessary.
- (c)~~(b)~~ If the admissions and release committee determines that an exceptional child's behavior is related to his disability, the child shall not be suspended any further or expelled unless the current placement could result in injury to the child, other children, or the educational personnel, in which case an appropriate alternative placement shall be provided that will provide for the child's educational needs and will provide a safe learning and teaching environment for all. If the admissions and release committee determines that the behavior is not related to the disability, the local educational agency may pursue its regular suspension or expulsion procedure for the child, if the behavior so warrants. However, educational services shall not be terminated during a period of expulsion ***and during a suspension after a student is suspended for more than a total of ten (10) days during a school year***. A district may seek temporary injunctive relief through the courts if the parent and the other members of the admissions and release committee cannot agree upon a placement and the current placement will likely result in injury to the student or others.
- (7) Suspension of primary school students shall be considered only in exceptional cases where there are safety issues for the child or others.

Section 2. KRS 157.200 is amended to read as follows:

- (1) "Exceptional children and youth" means persons under twenty-one (21) years of age who differ in one (1) or more respects from ***same-age peers***~~[average or normal children]~~ in physical, mental, learning, emotional, or social characteristics and abilities to such a degree that they need special educational programs or services for them to benefit from the regular or usual facilities or educational programs of the public schools in the districts in which they reside. The Department of Education, through administrative regulations promulgated by the Kentucky Board of Education, shall interpret the statutory definitions of exceptionality. An exceptionality is any trait so defined in this section ***or*** by administrative regulations ***promulgated by***~~[of]~~ the Kentucky Board of Education. Requirements of average daily attendance for exceptional classes shall be regulated by statute, or in the absence of direction by administrative regulations promulgated by the Kentucky Board of Education. Categories of exceptionalities included within, but not limited by, this definition are as follows:
- (a) "***Orthopedic impairment***~~[Physically disabled or orthopedically impaired]~~" means a severe ***physical***~~[orthopedic]~~ impairment ***of bone or muscle*** which adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education. The term includes physical impairments caused by congenital anomaly, disease, and from other causes.
- (b) "Other health impaired" means limited strength, vitality, or alertness, ***including a heightened alertness to environmental stimuli***, due to a chronic or acute health problem which adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education. Chronic health problems may include, but are not be limited to, a heart condition, tuberculosis, sickle cell anemia, hemophilia, epilepsy, rheumatic fever, nephritis, asthma, lead poisoning, leukemia, diabetes, attention deficit disorder, attention deficit hyperactive disorder, or acquired immune deficiency syndrome.
- (c) "~~[Communication disorder or]~~Speech or language ***impairment***~~[impaired]~~" means a ***communication disorder such as stuttering***~~[in language]~~, ***impaired articulation, impaired language, impaired voice, delayed acquisition of language, or absence of language that***~~[voice, or fluency, which]~~ adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education.
- (d) "Hearing impairment" means a physiological hearing loss:
1. Ranging from mild to profound, which is either permanent or fluctuating, and of such a degree that the pupil is impaired in the processing of linguistic information via the auditory channel either with or without amplification; or

2. That adversely affects educational performance so that specially designed instruction is required for the child or youth to benefit from education.

The term shall include both deaf and hard of hearing children.

- (e) "Mental disability" means a deficit or delay in intellectual and adaptive behavior functioning, which adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education, and which is typically manifested during the developmental period.
- (f) "Specific learning disability" means a disorder in one (1) or more of the psychological processes primarily involved in understanding or using spoken or written language which selectively and significantly interferes with the acquisition, integration, or application of listening, speaking, reading, writing, reasoning, or mathematical abilities. The disorder is lifelong, intrinsic to the individual, and adversely affects educational performance to the extent that specially designed instruction is required in order for the pupil to benefit from education. The term does not include a learning problem which is the direct result of:
 1. A hearing impairment;
 2. Visual, physical, mental, or emotional-behavioral disabilities; or
 3. Environmental, cultural, or economic differences.
- (g) "Emotional-behavioral disability" means a condition characterized by behavioral excess or deficit which significantly interferes with a pupil's interpersonal relationships or learning process to the extent that it adversely affects educational performance so that specially designed instruction is required in order for the pupil to benefit from education.
- (h) "Multiple disability" means a combination of two (2) or more disabilities resulting in significant learning, developmental, or behavioral and emotional problems, which adversely affects educational performance and, therefore, requires specially designed instruction in order for the pupil to benefit from education. A pupil is not considered to have a multiple disability if the adverse effect on educational performance is solely the result of deaf-blindness or the result of speech or language disability and one (1) other disabling condition.
- (i) "Deaf-blind" means auditory and visual impairments, the combination of which creates such severe communication and other developmental and learning needs that the pupil cannot be appropriately educated in special education programs designed solely for pupils with hearing impairments, visual impairments, or severe disabilities, unless supplementary assistance is provided to address educational needs resulting from the two (2) disabilities.
- (j) "Visually disabled" means a visual impairment, which, even with correction, adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education. The term includes both partially seeing and blind pupils.
- (k) "Developmental delay" means a significant discrepancy between a child's current level of performance in basic skills such as cognition, language or communication, self-help, social-emotional, or fine or gross motor, and the expected level of performance for that age. The term shall be used only with children ages three (3) through eight (8).
- (l) "Traumatic brain injury" means an acquired impairment to the neurological system resulting from an insult to the brain which adversely affects educational performance and causes temporary or permanent and partial or complete loss of:
 1. Cognitive functioning;
 2. Physical ability; or
 3. Communication or social-behavioral interaction.

The term does not include a brain injury that is congenital or degenerative, or a brain injury induced by birth trauma.

- (m) "Autism" means a developmental disability significantly affecting verbal and non-verbal communication and social interaction, generally evident before age three (3), that adversely affects educational performance. Characteristics of autism include:

1. ~~Irregularity and impairment in communication;~~
2. ~~Engagement in repetitive activity and stereotyped movement;~~
2. ~~3.~~ Resistance to environmental change or change in daily routine; and
3. ~~4.~~ Unusual responses to sensory experience.

The term does not include children with characteristics of an emotional-behavioral disability.

- (n) "Gifted and talented student" means a pupil identified as possessing demonstrated or potential ability to perform at an exceptionally high level in general intellectual aptitude, specific academic aptitude, creative or divergent thinking, psychosocial or leadership skills, or in the visual or performing arts.
- (2) "Special education" means specially designed instruction to meet the unique needs of an exceptional child or youth.
- (3) "Special educational facilities" means physical facilities designed or adapted to meet the needs of exceptional children and youth, and approved according to regulations promulgated by the Kentucky Board of Education.
- (4) "Related services" means **transportation and the** ~~such~~ developmental, corrective, and other supportive services ~~as are~~ required to assist an exceptional child or youth to benefit from special education, and may include, but are not limited to, **speech-language pathology and audiology services;** psychological services; ~~and~~ physical and occupational therapy; **recreation, including therapeutic recreation; early** ~~and~~ identification and assessment of disabilities; ~~and~~ counseling services, **including rehabilitation counseling; orientation and mobility services;** ~~and~~ medical services for diagnostic or evaluation purposes; **school health services; social work services in schools; and parent counseling and training.**
- (5) "Transition services" means a coordinated set of activities for a pupil designed within an outcome-oriented process, that promotes movement from school to post-school activities. The term includes:
 - (a) Postsecondary education;
 - (b) Vocational training; and
 - (c) Integrated employment, including supported employment, continuing and adult education, adult services, independent living, or community participation.

The coordinated set of activities shall be based on the individual pupil's needs, taking into account the pupil's preferences and interests, and shall include instruction, community experience, the development of employment, and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.

Approved March 15, 2001

CHAPTER 96

(HCR 51)

A CONCURRENT RESOLUTION confirming the appointment of Seth Allen Conner to the Kentucky Agricultural Development Board.

WHEREAS, KRS 248.707 requires the Governor to appoint members to the Agricultural Development Board subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on July 6, 2000, by Executive Order 2000-875, the Governor appointed Seth Allen Conner to the Agricultural Development Board for a term expiring July 6, 2003; and

WHEREAS, Seth Allen Conner meets the requirements of KRS 248.707, being an active farmer and who otherwise meets the requirements of KRS 11.160;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. Consent is given to the appointment of Seth Allen Conner to the Agricultural Development Board for a term to expire on July 6, 2003.

Section 2. The Clerk of the House of Representatives shall forward a copy of this resolution and notification of its adoption to Seth Allen Conner, 1867 Conner Road, Clinton, Kentucky 42031 and to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

Approved March 15, 2001

CHAPTER 97

(HB 130)

AN ACT relating to transportation of prisoners.

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

Section 1. KRS 441.510 is amended to read as follows:

- (1) If an ~~inmate~~~~accused~~ is confined in a detention facility, he shall be transported as necessary in accordance with the following provisions~~[- unless otherwise ordered by the court-]~~:
 - (a) If he is lodged in an urban-county facility in the county where the trial is to be held, the jailer shall carry out this duty; and
 - (b) In all other cases, the sheriff of the county where the prisoner is incarcerated shall carry out this duty as provided in subsection (3) of this section.
- (2) ***The transportation of any inmate housed in a county detention center whose court appearance is necessary in any other county shall be transported by the sheriff of the county where the trial or court proceedings are to be held.***
- (3) If an accused is sentenced to confinement, the sheriff shall deliver him to the proper detention facility, with the exception that in the case of a sentence to an urban-county detention facility, the jailer shall carry out this duty.
- ~~(4)(3)~~ In each county where there is no jail, the fiscal court or the legislative body of a charter county government, as appropriate, shall adopt a transportation plan which establishes the party responsible for transporting prisoners as necessary:
 - (a) The fiscal court or the legislative body of a charter county government, as appropriate, may require the jailer to serve as transportation officer to be responsible for transporting prisoners as necessary; or
 - (b) The fiscal court or the legislative body of a charter county government, as appropriate, may require the sheriff to serve as transportation officer to be responsible for transporting prisoners as necessary; or
 - (c) The fiscal court or the legislative body of a charter county government, as appropriate, may adopt any reasonable transportation plan so long as the party responsible for transporting prisoners is specified.
- ~~(5)(4)~~ Upon the recommendation of the jailer, the fiscal court shall employ a female transportation officer for purposes of assisting the jailer during the transportation of female prisoners, when deemed necessary by the jailer.
- ~~(6)(5)~~ In any county where there is no jail and the jailer does not transport prisoners, the jailer shall serve as a bailiff to the Circuit and District Courts of the county as provided for in KRS 71.050.
- ~~(7)(6)~~ Nothing in this section shall prohibit the jailer from transporting the prisoners as he or she deems necessary.

Approved March 15, 2001

CHAPTER 98

(HB 102)

AN ACT relating to mortgage loan companies and brokers.

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

Section 1. KRS 294.020 is amended to read as follows:

- (1) The following shall be exempt from this chapter:
 - (a) Any person ***duly licensed, chartered, or otherwise subject to regular examination at least once every two (2) years by a state or federal financial institution regulatory agency***~~doing business~~ under the laws of this state or any other state or the United States ***as a bank***~~relating to banks~~, bank holding ***company***~~companies~~, trust ***company***~~companies~~, credit ***union***~~unions~~, savings and loan ***association***~~associations~~, service corporation ***subsidiary***~~subsidiaries~~ of savings and loan associations, consumer ***loan or finance company***~~companies~~, industrial loan ***company***~~companies~~, insurance ***company***~~companies~~,~~or~~ real estate investment ***trust***~~trusts~~ as defined in 26 U.S.C. sec. 856~~and the affiliates of such companies~~,~~or~~ an institution of the farm credit system organized under the Farm Credit Act of 1971 as amended, ***or wholly owned subsidiary of any institution listed in this paragraph if the institution maintains a place of business in Kentucky;***
 - (b) An attorney-at-law licensed to practice law in Kentucky who is not principally engaged in the business of negotiating mortgage loans, when the person renders services in the course of his practice as an attorney-at-law;
 - (c) Any person doing any act under order of any court;
 - (d) The United States of America, the Commonwealth of Kentucky, or any other state, and any Kentucky city, county, or other political subdivision, and any agency, division, or corporate instrumentality of any of the foregoing;
 - (e) The Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), and the Government National Mortgage Association (GNMA);
 - (f) With the approval of the commissioner, an independent contractor that solicits mortgage loans for only one (1) licensed mortgage loan company or licensed mortgage loan broker may be exempted from obtaining a license under this chapter if:
 1. The licensed mortgage loan company or licensed mortgage loan broker notifies the department that it will assume legal responsibility for the actions of the independent contractor in complying with the provisions of KRS Chapter 294; and
 2. The licensed mortgage loan company or licensed mortgage loan broker provides the department with proof that its bond will cover the independent contractor;
 - (g) ***Any mortgage loan involving housing initially transferred by certificate of title under KRS Chapter 186A.***
- (2) The following shall be exempt from all the provisions of this chapter except that they shall be subject to the examination or investigation provisions of KRS 294.170(4), (5), and (6), 294.180, and 294.190 if it appears on grounds satisfactory to the commissioner, on written complaint, that an examination or investigation is necessary, and they shall be subject to the prohibited acts provisions of KRS 294.220:
 - (a) Mortgage loan companies or mortgage loan brokers regulated by the Department of Housing and Urban Development;
 - (b) Any natural person making a mortgage loan with his or her own funds for the person's own investment without intent to resell the mortgage loan;
 - (c) Any person doing business under the laws of this state or the United States relating to any broker-dealer, agent, or investment adviser duly registered with the Department of Financial Institutions;
 - (d) Any person licensed in this state as a real estate broker or real estate sales associate, not actively engaged in the business of negotiating loans secured by real property, when the person renders the services in the course of his or her practice as a real estate broker or real estate associate; and
 - (e) Any person making less than five (5) mortgage loans per year.
- (3) Any person relying upon an exemption under subsection (2)(c) or (d) of this section shall file with the commissioner a claim of exemption. The commissioner shall thereafter determine the availability of the claimed exemption and he shall not disallow an exemption that is validly claimed.

- (4) *Any person listed in subsection (1)(a), (b), (c), (d), or (e) of this section shall not be required to file with the commissioner a claim of exemption.*
- (5) (a) *Any natural person making a loan under subsection (2)(b) of this section shall make the following disclosure, on a separate sheet of paper in minimum eighteen (18) point type, to the borrower:*

DISCLOSURE

(Name and address of lender) is not licensed or regulated by the Kentucky Department of Financial Institutions.

(Name of lender) is making this mortgage loan with his or her own funds, for the person's own investment, without intent to resell the mortgage loan.

(The phone number and address of the Kentucky Department of Financial Institutions).

- (b) *A copy of the disclosure, signed by the borrower, shall be maintained by the natural person for a period not to exceed three (3) years after the date the mortgage loan is paid in full.*
- (c) *This subsection shall not apply to a natural person under subsection (2)(b) of this section making less than five (5) mortgage loans per year.*

Section 2. KRS 294.030 is amended to read as follows:

- (1) (a) *It is unlawful for any person to transact business in this state, either directly or indirectly, as a mortgage loan company or mortgage loan broker if he is not licensed under this chapter, unless ~~that such~~ person is exempt under KRS 294.020 and, if required by subsection (3) of Section 1 of this Act to file a claim of exemption, has filed a claim of exemption and the filed claim of exemption has been allowed by the commissioner.*
- (b) *It is unlawful for any natural person to make a loan under subsection (2)(b) of Section 1 of this Act without making the disclosure required by subsection (5) of Section 1 of this Act.*
- (2) Neither the fact that a license has been issued nor the fact that any person, business, or company is effectively registered, constitutes a finding by the commissioner that any document filed under this chapter is true, complete, and not misleading. Nor does such fact directly or indirectly imply approval of the registrant by the commissioner or the Commonwealth of Kentucky. It is unlawful to make or cause to be made to any prospective customer or client any representation inconsistent with this subsection.
- (3) *Any person who willfully transacts business in this state in violation of subsection (1) of this section shall have no right to collect, receive, or retain any interest or charges whatsoever on a loan contract, but the unpaid principal of the loan shall be paid in full.*

Section 3. KRS 294.220 is amended to read as follows:

- (1) It shall be unlawful for any person to make or cause to be made, in any document filed with the commissioner or in any proceeding under this chapter, any statement which is, at the time and in light of the circumstances under which it is made, false or misleading in any material respect.
- (2) It shall be unlawful for any mortgage loan company or mortgage loan broker, in connection with the operation of a mortgage loan business or the management or servicing of mortgage contracts, directly or indirectly:
 - (a) To employ a device, scheme, or artifice to defraud;
 - (b) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person;
 - (c) To fail to disburse funds in accordance with a loan commitment;
 - (d) To delay closing of any mortgage loan for the purpose of increasing interest, costs, fees, or charges payable by the borrower;
 - (e) Upon receipt of a customer's written request, to delay beyond two (2) business days the issuance of a written loan payoff amount or to delay beyond ten (10) business days the issuance of a payment history;
or
 - (f) *To charge a fee for the issuance of an initial written loan payoff amount or payment history for each calendar quarter as set out in paragraph (e) of this subsection.*

- (3) Unless exempted by KRS 294.020, *and, if required by subsection (3) of Section 1 of this Act to file a claim of exemption, has filed a claim of exemption and the filed claim of exemption has been allowed by the commissioner*, it shall be unlawful for any person to transact any mortgage loan business in this state unless it:
- (a) Qualifies to do business in Kentucky as required by KRS Chapter 271B; and
 - (b) Complies with the provisions of this chapter.

Approved March 15, 2001

CHAPTER 99

(SB 165)

AN ACT relating to school finance.

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

Section 1. KRS 160.570 is amended to read as follows:

- (1) Each board of education shall appoint a bank, trust company, or savings and loan association to serve as its depository, and if its annual receipts from all sources exceed one hundred thousand dollars (\$100,000), it may designate three (3) depositories, except boards of education of school districts in counties containing cities of the first class may designate up to ~~six (6)~~ ~~five (5)~~ depositories. The depository may be designated for a period not to exceed two (2) years, and before entering upon its duties shall agree with the board as to the rate of interest to be paid on average daily or monthly balances.
- (2) The depository selected shall, before entering upon its duties, execute bond for the faithful performance of its duties, to be approved by the local board of education in accordance with Kentucky Board of Education administrative regulations, and to be approved by the commissioner of education. The bond shall be guaranteed by at least five (5) solvent personal sureties whose solvency must exceed the amount of the bond, or by a surety company authorized to do business in this state, or through the execution of a collateral bond consistent with the general banking laws of the state and the bonding laws applying to the safeguarding of state funds. The penal sum of the depository bond shall be determined by the board of education in accordance with the administrative regulations promulgated by the Kentucky Board of Education. A board of education may enter into an agreement with its depository whereby the premium on a bond guaranteed by a surety company may be paid either by the board or by the depository. If the board pays the premium, the depository shall allow the board not less than two percent (2%) interest on its average daily or average monthly balances. All depository bond forms shall be prepared by the chief state school officer and approved by the Kentucky Board of Education.
- (3) The depository shall hold for the board all funds deposited by the treasurer of the board or its tax collector or duly authorized agent, subject to withdrawal by the board at any time, and shall pay all funds so deposited to such person and in such manner as the board directs. The depository shall keep full and complete accounts of all of the board's funds, and make reports to the board or its authorized agents upon request. The depository shall keep all records relating to the transactions and duties of the office and turn them over to the successor of its office along with all school funds in hand. The board of education may at any time require a due and proper audit of the depository's records of the funds of the board by a competent outside agent.
- (4) A board of education may designate as its depository the authorized and bonded depository of the governing authority of the territory which the school district embraces. In such cases, the bond of the depository shall be made to cover specifically the safekeeping of the school board's funds, and all conditions set out in this section shall be carried out.

Approved March 15, 2001

CHAPTER 100**(SB 138)**

AN ACT relating to reorganization.

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

Section 1. The General Assembly hereby confirms Executive Order 2000-989, dated July 25, 2000. The executive order establishes the Office of Administrative Services within the Department of Workers' Claims.

Approved March 15, 2001

CHAPTER 101**(SB 106)**

AN ACT relating to insurance.

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

Section 1. KRS 304.6-020 is amended to read as follows:

The following expressly shall not be allowed as assets in any determination of the financial condition of an insurer:

- (1) Good will, trade names and other like intangible assets, *except as expressly permitted and as prescribed by the National Association of Insurance Commissioners' accounting practices and procedures.*
- (2) Advances to officers or directors (other than policy loans) whether secured or not, and advances to employees, agents and other persons on personal security only.
- (3) Stock of such insurer, owned by it, or loans secured thereby. Any such stock owned by such insurer shall be held as treasury stock and be deducted from the total issue of outstanding shares.
- (4) Furniture, fixtures, furnishings, safes, vehicles, libraries, stationery, literature and supplies (other than equipment authorized under subsection (1) of KRS 304.6-010), except in the case of title insurers such materials and plants as the insurer is expressly authorized to invest in under paragraph (k) of subsection (1) of KRS 304.6-010 and except, in the case of an insurer, such personal property as the insurer is permitted to hold pursuant to Subtitle 7 or which is reasonably necessary for the maintenance and operation of real estate lawfully acquired and held by the insurer, other than real estate used by it for home office, branch office and similar purposes.
- (5) The amount, if any, by which the aggregate book value of investments as carried in the ledger assets of the insurer exceeds the aggregate value thereof as determined under this code.

Approved March 15, 2001

CHAPTER 102**(HCR 57)**

A CONCURRENT RESOLUTION confirming the appointment of Wayne Hunt to the Kentucky Agricultural Development Board.

WHEREAS, KRS 248.707 requires the Governor to appoint members to the Agricultural Development Board subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on July 6, 2000, by Executive Order 2000-875, the Governor appointed Wayne Hunt to the Agricultural Development Board for a term expiring July 6, 2002; and

WHEREAS, Wayne Hunt meets the requirements of KRS 248.707, being an active farmer who otherwise meets the requirements of KRS 11.160;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. Consent is given to the appointment of Wayne Hunt to the Agricultural Development Board for a term to expire on July 6, 2002.

Section 2. The Clerk of the House of Representatives shall forward a copy of this resolution and notification of its adoption to Wayne Hunt, 1000 Wayne Hunt Road, Herndon, Kentucky 42236 and to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

Approved March 15, 2001

CHAPTER 103

(HCR 17)

A CONCURRENT RESOLUTION confirming the appointment of Marc A. Yussman to the Governor's Postsecondary Education Nominating Committee.

WHEREAS, as authorized by KRS 164.005, the Governor has appointed Marc A. Yussman as a member of the Governor's Postsecondary Education Nominating Committee representing the Fourth Supreme Court District for a term expiring April 14, 2006; and

WHEREAS, appointments to the Governor's Postsecondary Education Nominating Committee are subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, by letter of April 17, 2000, the Governor has delivered the name of Marc A. Yussman of Louisville, Kentucky, for confirmation as a member of the committee, in accordance with KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Marc A. Yussman meets the requirements established in KRS 164.005 for membership on the Governor's Postsecondary Education Nominating Committee;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Marc A. Yussman to the Governor's Postsecondary Education Nominating Committee for a term expiring April 14, 2006.

Section 2. The Clerk of the House of Representatives, in accordance with KRS 11.160(2)(g), shall notify Governor Paul E. Patton, Room 100, State Capitol, and Marc A. Yussman, 3503 Ridge Top Court, Louisville, Kentucky 40241, in writing, of the action of the General Assembly.

Approved March 15, 2001

CHAPTER 104

(HCR 16)

A CONCURRENT RESOLUTION confirming the appointment of Gail Ritchie Henson, Ph.D., to the Kentucky Board of Education.

WHEREAS, KRS 156.029 specifies that the Kentucky Board of Education shall consist of eleven members, four of whom shall represent the state at large, appointed by the Governor, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, in Executive Order 2000-770, dated June 20, 2000, Governor Paul E. Patton appointed Dr. Gail Ritchie Henson to represent the state at large on the Kentucky Board of Education for a term expiring April 14, 2004; and

WHEREAS, by letter of December 20, 2000, the Governor has delivered Dr. Henson's name for confirmation as a member of the board, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Dr. Henson meets the requirement of KRS 156.029 to not be engaged as a professional educator;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Gail Ritchie Henson, Ph.D., to the Kentucky Board of Education for a term expiring April 14, 2004.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol and Gail Ritchie Henson, Ph.D., 2335 Bonnycastle Avenue, Louisville, Kentucky 40205, in writing, of the General Assembly's action.

Approved March 15, 2001

CHAPTER 105

(HCR 12)

A CONCURRENT RESOLUTION confirming the appointment of Steve Catron to the Governor's Postsecondary Education Nominating Committee.

WHEREAS, in accordance with KRS 164.005, the Governor has appointed Steve Catron to represent the 2nd Supreme Court District on the Governor's Postsecondary Education Nominating Committee for a term expiring April 14, 2002; and

WHEREAS, appointments to the Governor's Postsecondary Education Nominating Committee are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by Executive Order 2000-680, dated June 7, 2000, the Governor has delivered Steve Catron's name for confirmation as a member of the Governor's Postsecondary Education Nominating Committee, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Steve Catron meets the requirements established in KRS 164.005 for membership on the Governor's Postsecondary Education Nominating Committee;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate confirm the appointment of Steve Catron to the Governor's Postsecondary Education Nominating Committee for a term ending April 14, 2002.

Section 2. The Clerk of the House of Representatives, in accordance with KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol and Steve Catron, 146 Ridgewood Drive, Bowling Green, Kentucky 42103, in writing, of the General Assembly's action.

Approved March 15, 2001

CHAPTER 106

(HCR 13)

A CONCURRENT RESOLUTION confirming the reappointment of Dr. Samuel L. Robinson to the Kentucky Board of Education.

WHEREAS, in accordance with KRS 156.029, the Governor has reappointed Dr. Samuel L. Robinson as a member of the Kentucky Board of Education representing the state at large for a term expiring on April 14, 2004; and

WHEREAS, appointments to the Kentucky Board of Education are subject to confirmation by the Senate and House of Representatives; and

WHEREAS, by letter dated June 20, 2000, the Governor has delivered Dr. Samuel L. Robinson's name for confirmation as a member of the Kentucky Board of Education, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Dr. Samuel L. Robinson meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the reappointment of Dr. Samuel L. Robinson to the Kentucky Board of Education for a term ending April 14, 2004.

Section 2. The Clerk of the House of Representatives, in accordance with KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol and Dr. Samuel L. Robinson, 233 West Broadway, Suite 120, Louisville, Kentucky 40202, in writing, of the General Assembly's action.

Approved March 15, 2001

CHAPTER 107

(HCR 14)

A CONCURRENT RESOLUTION confirming the reappointment of Alcie Ann Combs to the Kentucky Board of Education.

WHEREAS, in accordance with KRS 156.029, the Governor has reappointed Alcie Ann Combs as a member of the Kentucky Board of Education representing the state at large for a term expiring April 14, 2004; and

WHEREAS, appointments to the Kentucky Board of Education are subject to confirmation by the Senate and House of Representatives; and

WHEREAS, by letter dated June 20, 2000, the Governor has delivered Alcie Ann Combs' name for confirmation as a member of the Kentucky Board of Education, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Alcie Ann Combs meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the reappointment of Alcie Ann Combs to the Kentucky Board of Education for a term ending April 14, 2004.

Section 2. The Clerk of the House of Representatives, in accordance with KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol and Alcie Ann Combs, 102 Hickory Knoll, Quail Ridge, Pikeville, Kentucky 41501-1908, in writing, of the General Assembly's action.

Approved March 15, 2001

CHAPTER 108

(HCR 18)

A CONCURRENT RESOLUTION confirming the appointment of Anthony F. Kelly to the Governor's Postsecondary Education Nominating Committee.

WHEREAS, as authorized by KRS 164.005, the Governor has appointed Anthony F. Kelly as a member of the Governor's Postsecondary Education Nominating Committee representing the Sixth Supreme Court District for a term expiring April 14, 2006; and

WHEREAS, appointments to the Governor's Postsecondary Education Nominating Committee are subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, by letter of April 17, 2000, the Governor has delivered the name of Anthony F. Kelly of Union, Kentucky, for confirmation as a member of the committee, in accordance with KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Anthony F. Kelly meets the requirements established in KRS 164.005 for membership on the Governor's Postsecondary Education Nominating Committee;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Anthony F. Kelly to the Governor's Postsecondary Education Nominating Committee for a term expiring April 14, 2006.

Section 2. The Clerk of the House of Representatives, in accordance with KRS 11.160(2)(g), shall notify Governor Paul E. Patton, Room 100, State Capitol, and Anthony F. Kelly, 787 Gallant Fox Lane, Union, Kentucky 41091, in writing, of the action of the General Assembly.

Approved March 15, 2001

CHAPTER 109

(HCR 35)

A CONCURRENT RESOLUTION confirming the appointment of Joan N. Taylor to the Council on Postsecondary Education;

WHEREAS, KRS 164.011 requires the Governor to appoint the thirteen citizen members of the Council on Postsecondary Education, subject to the confirmation by the Senate and House of Representatives; and

WHEREAS, pursuant to KRS 164.011, the Governor has appointed Ms. Joan N. Taylor as a citizen member of the Council on Postsecondary Education for a term expiring December 31, 2006; and

WHEREAS, the Senate and House of Representatives find that Ms. Joan N. Taylor meets the requirements of KRS 164.011, being a resident and qualified voter of Kentucky, not holding an official relationship to any institution of higher education in Kentucky, and not engaging in any occupation or business inconsistent with her duties as a member of the Council on Postsecondary Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Senate and House of Representatives, pursuant to KRS 164.011, do confirm the appointment of Ms. Joan N. Taylor to the Council on Postsecondary Education for a term expiring on December 31, 2006.

Section 2. That the Clerk of the House shall forward a copy of this Resolution, and any written notification of its adoption, to Ms. Joan N. Taylor, 1324 Tanforan Drive, Lexington, Kentucky 40517, and to Governor Paul Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

Approved March 15, 2001

CHAPTER 110

(HCR 36)

A CONCURRENT RESOLUTION confirming the appointment of Ronald Greenberg to the Council on Postsecondary Education.

WHEREAS, KRS 164.011 requires the Governor to appoint the thirteen citizen members of the Council on Postsecondary Education, subject to the confirmation by the Senate and House of Representatives; and

WHEREAS, pursuant to KRS 164.011, the Governor has appointed Mr. Ronald Greenberg as a citizen member of the Council on Postsecondary Education for a term expiring December 31, 2006; and

WHEREAS, the Senate and House of Representatives find that Mr. Ronald Greenberg meets the requirements of KRS 164.011, being a resident and qualified voter of Kentucky, not holding an official relationship to any institution of higher education in Kentucky, and not engaging in any occupation or business inconsistent with his duties as a member of the Council on Postsecondary Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Senate and House of Representatives, pursuant to KRS 164.011, do confirm the appointment of Mr. Ronald Greenberg to the Council on Postsecondary Education for a term expiring on December 31, 2006.

Section 2. That the Clerk of the House shall forward a copy of this Resolution, and any written notification of its adoption, to Mr. Ronald Greenberg, 1416 Willow Avenue, Louisville, Kentucky 40204 and to Governor Paul Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

Approved March 15, 2001

CHAPTER 111

(SB 17)

AN ACT changing the classification of the City of Oak Grove, in Christian County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Oak Grove, in Christian County, is such as to justify its being classified as a city of the fourth class;

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

Section 1. The City of Oak Grove, in Christian County, is transferred from the fifth to the fourth class of cities.

Approved March 15, 2001

CHAPTER 112

(SB 22)

AN ACT relating to banks.

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

Section 1. KRS 287.180 is amended to read as follows:

- (1) Banks authorized under the laws of this state may, except as provided in subsections (2) or (3) of this section, exercise, only at their principal office, powers necessary to carry on the business of banking by discounting and negotiating notes, drafts, bills of exchange, and other evidences of debt, and by purchasing bonds, receiving deposits and allowing interest on these items, buying and selling exchange, coin, and bullion, and lending money on personal or real security.
- (2) A bank may establish *within any state, the District of Columbia, or a territory of the United States* a branch ~~in a county in which its principal office or an existing branch is located~~ and may exercise all of the powers conferred in subsection (1) of this section at the branch. A bank, except for a bank that the commissioner may designate by the promulgation of administrative regulations, shall apply to the commissioner for permission to establish a branch. Before the commissioner shall approve or disapprove any application made under this subsection the commissioner shall ascertain and determine that the public convenience and advantage will be served and promoted and that there is reasonable probability of the successful operation of the branch based upon the financial and managerial impact of the branch on the bank establishing the branch. The following conditions shall apply to applications for branches:

- (a) The permission to open a branch shall lapse one (1) year after the commissioner has rendered a final order as defined in KRS 13B.010, unless it shall have been opened and business actually begun in good faith. If, for reasons beyond the control of the applicant, the branch is not opened within this time period, permission to open the branch may, with the approval of the commissioner, be extended for any period of time the commissioner deems to be necessary; and
 - (b) An application to establish a branch office shall be approved or disapproved by the commissioner based upon the facts existing at the date of filing of the application, except for the financial condition of the bank proposing to establish a branch office, which condition shall be subject to review until an order ruling on the application is made.
- (3) Any corporation which on January 1, 1966, was engaged in operating an agency or branch bank may continue to retain and operate the agency or branch bank under the general banking laws, and the requirements set forth in this section in respect to capital shall not apply to any existing agency or branch bank but only as to those agencies or branch banks which may be established in the future in accordance with the terms of this section.
 - (4) The provisions of this section shall not be construed to prohibit the merger of banks in the same county and the operation by the merged corporation of the banks, nor to prohibit the sale of any bank to, and the purchase by, any other bank in the same county and the operation of the bank by the purchasing bank as a branch, provided the commissioner shall determine that the public convenience and necessity will be served by the operation. The bank which does not survive the merger shall surrender its charter.
 - (5) Any national banking association or any state bank member of the Federal Reserve system whose principal office is located in this state may do all things and perform all acts which state banks are permitted to do or perform under this section, subject to the conditions and restrictions provided for banks as to exercise of these powers.
 - (6) When a branch or agency bank has once been established any operation of the branch or agency bank shall not be discontinued, and the branch or agency bank shall not be closed until after ninety (90) days' notice in writing to the commissioner. In the discretion of the commissioner the branch or agency bank proposing to discontinue operation may be required to give notice of the date when its operation will cease.

Section 2. KRS 287.900 is amended to read as follows:

- (1) For purposes of this section and KRS 287.905:
 - (a) "Bank" means any institution organized under this chapter, the banking laws of another state, or the National Bank Act, as amended, to do a banking business;
 - (b) "Bank holding company," "company," and "control" have the meanings accorded them in the Federal Bank Holding Company Act of 1956, as amended (12 U.S.C. secs. 1841 et seq.). "Control" may be acquired by acquisition of voting securities, by purchase of assets, by merger or consolidation, by contract, or otherwise;
 - (c) "Individual" means a natural person, partnership, association, business trust, voting trust, or similar organization. "Individual" does not include a corporation; and
 - (d) "Deposit" has the meaning accorded it in the Federal Deposit Insurance Act, as amended, and regulations promulgated thereunder; excluded, however, from deposits are all interbank deposits and all deposits in foreign branches and international banking facilities, as shown in the reports made by all federally insured depository institutions to their respective supervisory authorities.
- ~~(2) Any individual, or any bank holding company having its principal place of business in this state, may acquire control of one (1) or more banks or bank holding companies wherever located, except that no individual, who on July 13, 1984, controls a bank or bank holding company wherever located, and no bank holding company wherever located, may acquire, directly or indirectly, control of greater than fifty percent (50%) of the voting securities of a bank having its principal place of business in this state if the bank was chartered after July 13, 1984, and if, at the time of the acquisition, the bank has been in existence less than five (5) years. The provisions of this subsection shall not prohibit the organization of a one (1) bank holding company for the purpose of acquiring control of a bank even if the bank was chartered after July 13, 1984, and has been in existence less than five (5) years at the time of the acquisition.~~
- ~~(3)~~ No individual or bank holding company wherever located may acquire control of any bank or bank holding company if, upon the acquisition, the individual or bank holding company would control banks in this state

holding more than fifteen percent (15%) of the total deposits and member accounts in the offices of all federally insured depository institutions in this state as reported in the most recent June 30 quarterly report made by the institutions to their respective supervisory authorities which are available at the time of the acquisition.

~~(3)(4)~~ The limitations set forth in this section or any other provision of this chapter or any administrative regulation promulgated thereunder, as now in effect or amended after July 13, 1984, shall not apply to the acquisition of a bank if, in his or her discretion, the commissioner, if the bank is organized under the laws of this state, or the comptroller of the currency, if the bank is a national bank, determines that an emergency exists and the acquisition is appropriate in order to prevent the probable failure of the bank which is closed or is in danger of closing.

~~(4)(5)~~ The provisions of this section shall not be construed to prohibit or restrict the merger or consolidation of banks or bank holding companies having their principal places of business in the same county and the operation by the merged or consolidated corporation of the banks, nor to prohibit the sale of any bank or bank holding company to, and the purchase thereof by, any other bank or bank holding company with its principal place of business in the same county and the operation of the bank as a branch so long as the provisions of KRS 287.180(4) have been satisfied.

Section 3. KRS 41.240 is amended to read as follows:

(1) (a) Before any bank shall be named as a state depository to receive public funds, it shall either pledge or provide to the State Treasurer, as collateral, securities or other obligations having an aggregate current face value or current quoted market value at least equal to the deposits or provide to the State Treasurer a surety bond or surety bonds in favor of the State Treasurer in an amount at least equal to the deposits, provided, however, that amounts insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation need not be so collateralized. The president or cashier of each depository bank shall submit to the Treasurer and the State Investment Commission a statement subscribed and sworn to by him showing:

1. The face value or current quoted market value of the securities or other obligations pledged or provided as of the time the securities or other obligations are offered as collateral; and
2. The value of surety bonds provided as of the time such surety bonds are provided as collateral.

The valuation of all pledged or provided collateral and the face amount of all surety bonds provided as collateral shall be reported to the State Treasurer and State Investment Commission upon receipt of deposit and within ten (10) days of the close of each quarter after the quarter beginning December 31. Such value with respect to pledged collateral other than surety bonds shall be as of the end of the quarter or the preceding business day and, as to market values, shall be obtained from a reputable bond pricing service. The State Treasurer and Governor may from time to time call for additional collateral to adequately secure the deposits as aggregate face or current market values may require.

- (b) No deposit of state collected demand and time funds shall collectively exceed at any time the depository's sum of capital, reserves, undivided profits and surplus or ten percent (10%) of the total deposits of any particular depository, whichever is less. Deposits will be valued at the end of each business day.
- (2) (a) As an alternative to paragraph (1)(a) of this section, a Kentucky depository insured by the Federal Deposit Insurance Corporation may either pledge to the State Treasurer, as collateral, securities or other obligations having an aggregate face value or a current quoted market value or provide to the State Treasurer a surety bond or surety bonds in an amount equal to eighty percent (80%) of the value of the state deposit including demand and time accounts, if the depository is determined by the State Investment Commission to have very strong credit with little or no credit risk at any maturity level and the likelihood of short-term unexpected problems of significance is minimal or not of a serious or long-term nature. The value of the state deposit will be determined at the end of the business day of deposit and as of the end of business on the last day of each quarter that funds are so deposited.
- (b) Valuation of all pledged or provided collateral and the face amount of surety bonds provided shall be reported to the State Treasurer and the State Investment Commission upon receipt of the state deposit and within ten (10) days of the close of each quarter after the quarter beginning December 31.

- (c) Depositories designated as qualified for reduced pledging shall be so recorded in the executive journal.
- (d) The State Investment Commission shall determine eligibility for the reduced pledging option based on totally objective and quantifiable measures of financial intermediary performance. The information for such eligibility shall be obtained from publicly available documents. The State Investment Commission shall promulgate the particular criteria of eligibility by regulations issued pursuant to KRS Chapter 13A.
- (3) Depositories which do not qualify or do not choose to qualify under subsection (1) or (2) of this section shall not receive state deposits in excess of amounts that are insured by an instrumentality of the United States.
- (4) Only the following securities and other obligations may be accepted by the State Treasurer as collateral under this section:
 - (a) Bonds, notes, letters of credit or other obligations of or issued or guaranteed by the United States, or those for which the credit of the United States is pledged for the payment of the principal and interest thereof, and any bonds, notes, debentures, letters of credit, or any other obligations issued or guaranteed by any federal governmental agency or instrumentality, presently or in the future established by an Act of Congress, as amended or supplemented from time to time, including, without limitation, the United States government corporations listed in KRS 66.480(1)(c);
 - (b) Obligations of the Commonwealth of Kentucky including revenue bonds issued by its statutory authorities, commissions or agencies;
 - (c) Revenue bonds issued by educational institutions of the Commonwealth of Kentucky as authorized by KRS 162.340 to 162.380;
 - (d) Obligations of any city of the first, second, and third classes of the Commonwealth of Kentucky, or any county, for the payment of principal and interest on which the full faith and credit of the issuing body is pledged;
 - (e) School improvement bonds issued in accordance with the authority granted under KRS 162.080 to 162.100;
 - (f) School building revenue bonds issued in accordance with the authority granted under KRS 162.120 to 162.300, provided that the issuance of such bonds is approved by the Kentucky Board of Education; and
 - (g) Surety bonds issued by sureties rated in one (1) of the three (3) highest categories by a nationally recognized rating agency.
- (5) *The State Treasurer shall accept letters of credit issued by federal home loan banks as collateral under this section.*

Approved March 15, 2001

CHAPTER 113

(HB 1)

AN ACT relating to crimes and punishments.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

- (1) *A person is guilty of terroristic threatening in the first degree when he or she:*
 - (a) *Intentionally makes false statements that he or she or another person has placed a weapon of mass destruction on:*
 - 1. *The real property or any building of any public or private elementary or secondary school, vocational school, or institution of postsecondary education;*
 - 2. *A school bus or other vehicle owned, operated, or leased by a school;*
 - 3. *The real property or any building public or private that is the site of an official school-sanctioned function; or*
 - 4. *The real property of any building owned or leased by a government agency; or*

- (b) *Intentionally and without lawful authority, places a counterfeit weapon of mass destruction at any location or on any object specified in paragraph (a) of this subsection.*
- (2) *A counterfeit weapon of mass destruction is placed with lawful authority if it is placed, with the written permission of the chief officer of the school or other institution, as a part of an official training exercise and is placed by a public servant, as defined in KRS 522.010.*
- (3) *A person is not guilty of commission of an offense under this section if he or she, innocently and believing the information to be true, communicates a threat made by another person to school personnel, a peace officer, a law enforcement agency, a public agency involved in emergency response, or a public safety answering point and identifies the person from whom the threat was communicated, if known.*
- (4) *Terroristic threatening in the first degree is a Class C felony.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

- (1) *A person is guilty of terroristic threatening in the second degree when, other than as provided in Section 1 of this Act, he or she intentionally:*
 - (a) *With respect to a school function, threatens to commit any act likely to result in death or serious physical injury to any student group, teacher, volunteer worker, or employee of a public or private elementary or secondary school, vocational school, or institution of postsecondary education, or to any other person reasonably expected to lawfully be on school property or at a school-sanctioned activity, if the threat is related to their employment by a school, or work or attendance at school, or a school function. A threat directed at a person or persons or at a school does not need to identify a specific person or persons or school in order for a violation of this section to occur;*
 - (b) *Makes false statements that he or she has placed a weapon of mass destruction at any location other than one specified in Section 1 of this Act; or*
 - (c) *Without lawful authority places a counterfeit weapon of mass destruction at any location other than one specified in Section 1 of this Act.*
- (2) *A counterfeit weapon of mass destruction is placed with lawful authority if it is placed as part of an official training exercise by a public servant, as defined in KRS 522.010.*
- (3) *A person is not guilty of commission of an offense under this section if he or she, innocently and believing the information to be true, communicates a threat made by another person to school personnel, a peace officer, a law enforcement agency, a public agency involved in emergency response, or a public safety answering point and identifies the person from whom the threat was communicated, if known.*
- (4) *Terroristic threatening in the second degree is a Class D felony.*

Section 3. KRS 508.080 is amended to read as follows:

- (1) *Except as provided in Section 1 or 2 of this Act, a person is guilty of terroristic threatening in the third degree when:*
 - (a) *He threatens to commit any crime likely to result in death or serious physical injury to another person or likely to result in substantial property damage to another person; or*
 - (b) *He intentionally makes false statements for the purpose of causing evacuation of a building, place of assembly, or facility of public transportation.*
- (2) *Terroristic threatening in the third degree is a Class A misdemeanor.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 527 IS CREATED TO READ AS FOLLOWS:

- (1) *A person is guilty of use of a weapon of mass destruction in the first degree when he or she intentionally, without lawful authority, places a weapon of mass destruction at any location in the Commonwealth and, as a result, any person other than the defendant is killed or receives serious physical injury.*
- (2) *A weapon of mass destruction is used with lawful authority if it is used with the written permission of an agency of the Commonwealth or of a city, county, charter county, or urban-county government having jurisdiction over the use of destructive devices as defined in KRS 237.030 or the use of explosives.*

- (3) *Use of a weapon of mass destruction in the first degree is a Class A felony unless a person other than the defendant is killed as a result, in which case it is a capital offense.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 527 IS CREATED TO READ AS FOLLOWS:

- (1) *A person is guilty of use of a weapon of mass destruction in the second degree when intentionally, without lawful authority, he or she:*
- (a) *Places a weapon of mass destruction at any location in the Commonwealth and, as a result, any person other than the defendant receives physical injury; or*
 - (b) *Places a weapon of mass destruction on:*
 - 1. *The real property or any building of any public or private elementary or secondary school, vocational school, or institution of postsecondary education;*
 - 2. *A school bus or other vehicle owned, operated, or leased by a school;*
 - 3. *The real property or any building, public or private, that is the site of an official school-sanctioned function; or*
 - 4. *The real property of any building owned or leased by a government agency,**and no person dies or receives any physical injury.*
- (2) *A weapon of mass destruction is used with lawful authority if it is used with the written permission of an agency of the Commonwealth or of a city, county, charter county, or urban-county government having jurisdiction over the use of destructive devices as defined in KRS 237.030 or the use of explosives.*
- (3) *Use of a weapon of mass destruction in the second degree is a Class B felony.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 527 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as provided in Section 5 of this Act, a person is guilty of use of a weapon of mass destruction in the third degree when intentionally, without lawful authority, he or she places a weapon of mass destruction at any location in the Commonwealth.*
- (2) *A weapon of mass destruction is used with lawful authority if it is used with the written permission of an agency of the Commonwealth or of a city, county, charter county, or urban-county government having jurisdiction over the use of destructive devices as defined in KRS 237.030 or the use of explosives.*
- (3) *Use of a weapon of mass destruction in the third degree is a Class C felony.*

Section 7. KRS 500.080 is amended to read as follows:

As used in the Kentucky Penal Code, unless the context otherwise requires:

- (1) "Actor" means any natural person and, where relevant, a corporation or an unincorporated association;
- (2) "Crime" means a misdemeanor or a felony;
- (3) "Dangerous instrument" means any instrument, including parts of the human body when a serious physical injury is a direct result of the use of that part of the human body, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury;
- (4) "Deadly weapon" means any *of the following*~~weapon~~:
 - (a) *A weapon of mass destruction;*
 - (b) Any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged;
 - (c)~~(b)~~ Any knife other than an ordinary pocket knife or hunting knife;
 - (d)~~(c)~~ Billy, nightstick, or club;
 - (e)~~(d)~~ Blackjack or slapjack;
 - (f)~~(e)~~ Nunchaku karate sticks;
 - (g)~~(f)~~ Shuriken or death star; or

- (h) Artificial knuckles made from metal, plastic, or other similar hard material;
- (5) "Felony" means an offense for which a sentence to a term of imprisonment of at least one (1) year in the custody of the Department of Corrections may be imposed;
- (6) "Government" means the United States, any state, county, municipality, or other political unit, or any department, agency, or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government;
- (7) "He" means any natural person and, where relevant, a corporation or an unincorporated association;
- (8) "Law" includes statutes, ordinances, and properly adopted regulatory provisions. Unless the context otherwise clearly requires, "law" also includes the common law;
- (9) "Minor" means any person who has not reached the age of majority as defined in KRS 2.015;
- (10) "Misdemeanor" means an offense, other than a traffic infraction, for which a sentence to a term of imprisonment of not more than twelve (12) months can be imposed;
- (11) "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state or by any law, order, rule, or regulation of any governmental instrumentality authorized by law to adopt the same;
- (12) "Person" means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority;
- (13) "Physical injury" means substantial physical pain or any impairment of physical condition;
- (14) "Possession" means to have actual physical possession or otherwise to exercise actual dominion or control over a tangible object;
- (15) "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;
- (16) "Unlawful" means contrary to law or, where the context so requires, not permitted by law. It does not mean wrongful or immoral; ~~and~~
- (17) "Violation" means an offense, other than a traffic infraction, for which a sentence to a fine only can be imposed; **and**
- (18) **"Weapon of mass destruction" means:**
- (a) **Any destructive device as defined in KRS 237.030, but not fireworks as defined in KRS 227.700;**
 - (b) **Any weapon that is designed or intended to cause death or serious physical injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors;**
 - (c) **Any weapon involving a disease organism; or**
 - (d) **Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.**

Section 8. KRS 532.025 is amended to read as follows:

- (1) (a) Upon conviction of a defendant in cases where the death penalty may be imposed, a hearing shall be conducted. In such hearing, the judge shall hear additional evidence in extenuation, mitigation, and aggravation of punishment, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant, or the absence of any prior conviction and pleas; provided, however, that only such evidence in aggravation as the state has made known to the defendant prior to his trial shall be admissible. Subject to the Kentucky Rules of Evidence, juvenile court records of adjudications of guilt of a child for an offense that would be a felony if committed by an adult shall be admissible in court at any time the child is tried as an adult, or after the child becomes an adult, at any subsequent criminal trial relating to that same person. Juvenile court records made available pursuant to this section may be used for impeachment purposes during a criminal trial and may be used during the sentencing phase of a criminal trial; however, the fact that a juvenile has been adjudicated delinquent of an offense that would be a felony if the child had been an adult shall not be used in finding the child to be a persistent felony offender based upon that adjudication. Release of the child's treatment, medical,

mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Release of any records resulting from the child's prior abuse and neglect under Title IV-E or IV-B of the Federal Social Security Act is also prohibited. The judge shall also hear argument by the defendant or his counsel and the prosecuting attorney, as provided by law, regarding the punishment to be imposed. The prosecuting attorney shall open and the defendant shall conclude the argument. In cases in which the death penalty may be imposed, the judge when sitting without a jury shall follow the additional procedure provided in subsection (2) of this section. Upon the conclusion of the evidence and arguments, the judge shall impose the sentence or shall recess the trial for the purpose of taking the sentence within the limits prescribed by law. If the trial court is reversed on appeal because of error only in the presentence hearing, the new trial which may be ordered shall apply only to the issue of punishment;

- (b) In all cases in which the death penalty may be imposed and which are tried by a jury, upon a return of a verdict of guilty by the jury, the court shall resume the trial and conduct a presentence hearing before the jury. Such hearing shall be conducted in the same manner as presentence hearings conducted before the judge as provided in paragraph (a) of this subsection, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant. Upon the conclusion of the evidence and arguments, the judge shall give the jury appropriate instructions, and the jury shall retire to determine whether any mitigating or aggravating circumstances, as defined in subsection (2) of this section, exist and to recommend a sentence for the defendant. Upon the findings of the jury, the judge shall fix a sentence within the limits prescribed by law.
- (2) In all cases of offenses for which the death penalty may be authorized, the judge shall consider, or he shall include in his instructions to the jury for it to consider, any mitigating circumstances or aggravating circumstances otherwise authorized by law and any of the following statutory aggravating or mitigating circumstances which may be supported by the evidence:
- (a) Aggravating circumstances:
 1. The offense of murder or kidnapping was committed by a person with a prior record of conviction for a capital offense, or the offense of murder was committed by a person who has a substantial history of serious assaultive criminal convictions;
 2. The offense of murder or kidnapping was committed while the offender was engaged in the commission of arson in the first degree, robbery in the first degree, burglary in the first degree, rape in the first degree, or sodomy in the first degree;
 3. The offender by his act of murder, armed robbery, or kidnapping knowingly created a great risk of death to more than one (1) person in a public place by means of a **weapon of mass destruction**~~{destructive device}~~, weapon, or other device which would normally be hazardous to the lives of more than one (1) person;
 4. The offender committed the offense of murder for himself or another, for the purpose of receiving money or any other thing of monetary value, or for other profit;
 5. The offense of murder was committed by a person who was a prisoner and the victim was a prison employee engaged at the time of the act in the performance of his duties;
 6. The offender's act or acts of killing were intentional and resulted in multiple deaths;
 7. The offender's act of killing was intentional and the victim was a state or local public official or police officer, sheriff, or deputy sheriff engaged at the time of the act in the lawful performance of his duties; and
 8. The offender murdered the victim when an emergency protective order or a domestic violence order was in effect, or when any other order designed to protect the victim from the offender, such as an order issued as a condition of a bond, conditional release, probation, parole, or pretrial diversion, was in effect.
 - (b) Mitigating circumstances:
 1. The defendant has no significant history of prior criminal activity;

2. The capital offense was committed while the defendant was under the influence of extreme mental or emotional disturbance even though the influence of extreme mental or emotional disturbance is not sufficient to constitute a defense to the crime;
 3. The victim was a participant in the defendant's criminal conduct or consented to the criminal act;
 4. The capital offense was committed under circumstances which the defendant believed to provide a moral justification or extenuation for his conduct even though the circumstances which the defendant believed to provide a moral justification or extenuation for his conduct are not sufficient to constitute a defense to the crime;
 5. The defendant was an accomplice in a capital offense committed by another person and his participation in the capital offense was relatively minor;
 6. The defendant acted under duress or under the domination of another person even though the duress or the domination of another person is not sufficient to constitute a defense to the crime;
 7. At the time of the capital offense, the capacity of the defendant to appreciate the criminality of his conduct to the requirements of law was impaired as a result of mental illness or retardation or intoxication even though the impairment of the capacity of the defendant to appreciate the criminality of his conduct or to conform the conduct to the requirements of law is insufficient to constitute a defense to the crime; and
 8. The youth of the defendant at the time of the crime.
- (3) The instructions as determined by the trial judge to be warranted by the evidence or as required by KRS 532.030(4) shall be given in charge and in writing to the jury for its deliberation. The jury, if its verdict be a recommendation of death, or imprisonment for life without benefit of probation or parole, or imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall designate in writing, signed by the foreman of the jury, the aggravating circumstance or circumstances which it found beyond a reasonable doubt. In nonjury cases, the judge shall make such designation. In all cases unless at least one (1) of the statutory aggravating circumstances enumerated in subsection (2) of this section is so found, the death penalty, or imprisonment for life without benefit of probation or parole, or the sentence to imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall not be imposed.

Approved March 15, 2001

CHAPTER 114

(HB 131)

AN ACT relating to peace officer training.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

- (1) ***A police officer who is elected as a jailer shall retain eligibility for Kentucky Law Enforcement Foundation Program Fund participation following his or her term of office as jailer, subject to the following conditions:***
 - (a) ***The police officer successfully completed a basic training course approved or recognized by the Kentucky Law Enforcement Council;***
 - (b) ***The person has been continuously employed as a police officer since basic training and has maintained his or her annual in-service training prior to the police officer's election to the office of jailer; and***
 - (c) ***During his or her term of office as jailer, the person has successfully completed forty (40) hours of annual in-service training approved or recognized by the Kentucky Law Enforcement Council.***
- (2) ***During his or her term of office, the jailer shall not be eligible to participate in the Kentucky Law Enforcement Foundation Program Fund.***

- (3) *Upon the jailer's return to a law enforcement agency that is eligible to participate in the Kentucky Law Enforcement Foundation Program Fund, he or she may participate in the fund, if otherwise eligible, without repeating basic training in its entirety. The jailer may be required to complete no more than eighty (80) hours of training as determined by the Kentucky Law Enforcement Council to participate in the fund.*
- (4) *In-service training required of the jailer under this section shall be provided by the Department of Criminal Justice Training without the cost of tuition to the jailer.*
- (5) *The provisions of this section shall apply to any person serving as elected jailer on or after the effective date of this Act, regardless of when the initial basic training was completed.*
- (6) *An elected jailer who is in office as of the effective date of this Act and who has successfully completed annual Department of Corrections in-service training during his or her term of office shall be deemed to have met the in-service training requirement of subsection (1) of this section. After the effective date of this Act, an elected jailer shall meet the requirements of subsection (1) of this section to retain Kentucky Law Enforcement Foundation Program Fund eligibility.*

Approved March 19, 2001

CHAPTER 115

(HB 281)

AN ACT relating to restoration of civil rights for convicted felons.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

- (1) *The Department of Corrections shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement a simplified process for the restoration of civil rights to eligible felony offenders. As part of this simplified process, the Department of Corrections shall:*
 - (a) *Inform eligible offenders about the process for restoration of civil rights and provide a standard form which individuals may sign upon their release to formally request that the Department of Corrections initiate the process;*
 - (b) *Generate a list on a monthly basis of eligible offenders who have been released by the Department of Corrections or discharged by the Parole Board and who have requested that their civil rights be restored;*
 - (c) *Conduct an investigation and compile the necessary information to ensure that all restitution has been paid and that there are no outstanding warrants, charges, or indictments;*
 - (d) *Provide notice to the Commonwealth's attorney in the county of commitment and to the Commonwealth's attorney in the offender's county of residence, setting out in the notification the criminal case number and charges for which the offender was convicted; and*
 - (e) *Forward information on a monthly basis of eligible felony offenders who have requested restoration of rights to the Office of the Governor for consideration of a partial pardon.*
- (2) *As used in this section, "eligible felony offender" means a person convicted of one (1) or more felonies who:*
 - (a) *Has reached the maximum expiration of his or her sentence or has received final discharge from the Parole Board;*
 - (b) *Does not have any pending warrants, charges, or indictments; and*
 - (c) *Had paid full restitution as ordered by the court or the Parole Board.*
- (3) *As used in this section, "civil rights" means the ability to vote, serve on a jury, obtain a professional or vocational license, and hold an elective office. It does not include the right to bear arms.*
- (4) *Any eligible offender not provided for under subsection (2) of this section may submit an application directly to the Department of Correction to initiate the process outlined in subsection (1) of this section.*

Approved March 19, 2001

CHAPTER 116

(HB 11)

AN ACT relating to the state amphitheater.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The Iroquois Amphitheater, located in Iroquois Park in Louisville, Kentucky, is named and designated as the state amphitheater.

Approved March 19, 2001

CHAPTER 117

(HB 103)

AN ACT relating to the inspection and certification of on-site sewage disposal and declaring an emergency.

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

Section 1. KRS 211.350 is amended to read as follows:

- (1) The cabinet shall regulate the construction, installation, or alteration of on-site sewage disposal systems except for systems that have a surface discharge.
- (2) No person, firm, or corporation shall construct, install, alter, or cause to be constructed, installed, or altered, any on-site sewage disposal system subject to regulation by the cabinet without having first obtained an on-site sewage disposal permit from the local health department. ***In lieu of inspection and certification by the local health department a licensed professional engineer in private practice licensed by the Commonwealth of Kentucky may perform site evaluations and approve system designs for an on-site sewage disposal system for the person, firm, or corporation and apply for the permit from the local health department. The final systems installation inspection shall be performed by the local health department. All applicable provisions of KRS Chapter 322 shall govern the licensed professional engineer. A professional engineer shall not perform site evaluations, approve system designs, or certify system installations of an on-site sewage disposal system on property owned by himself, an employee, or a partner of an engineering firm by which he is employed, or on property owned by the engineering firm.*** Nothing in this section shall be construed to deny a farmstead owner the right to obtain a permit. Except for farmstead owners on their own property, the construction, installation, or alteration shall be performed only by a person certified by the cabinet pursuant to KRS 211.357.
- (3) ***A local health department that issues a permit for an on-site sewage disposal system based on the site evaluation or system design of a licensed professional engineer in private practice licensed by the Commonwealth of Kentucky shall not be held liable for any defects or failures of the on-site sewage disposal system due to the site evaluation or system design.***
- (4) No person, firm, or corporation shall use or continue to use or permit the use or continued use of any on-site sewage disposal system that is constructed, installed, or altered under an on-site sewage disposal permit if the cabinet or local health department through a duly-authorized inspector, employee, ~~for~~-agent, ***or licensed professional engineer in private practice licensed by the Commonwealth of Kentucky*** finds that the system was not constructed, installed, or altered in conformance with the permit and regulations issued by the cabinet.
- ~~(5)~~~~(4)~~ No certified electrical inspector acting under authority of KRS 227.491 shall issue the certificates of approval of temporary or permanent electrical wiring unless the inspector has in his or her possession a notice of release as described in paragraphs (a) and (b) of this subsection. The inspector shall record the number of the notice of release on the certificate of approval. The person requesting approval of electrical wiring shall be responsible for obtaining the release from the local health department and providing it to the electrical inspector. This requirement shall only apply to dwellings, mobile homes, manufactured housing, buildings, or other structures that are constructed or installed after July 15, 1998. This requirement shall not apply to structures that do not have sewage waste fixtures or to those that are connected to a sewage waste disposal

system approved by the Natural Resources and Environmental Protection Cabinet. Nothing in this section shall be construed to deny the continued use of any electrical service connected to wiring approved prior to July 15, 1998.

- (a) An initial notice of release to allow temporary electrical power for construction shall be issued to the property owner or owner's agent by the local health department upon the application for a site evaluation.
- (b) A final notice of release to allow for permanent electrical power shall be issued to the property owner or owner's agent by the local health department upon approval of an on-site sewage disposal plan.
- (c) This section shall not apply to any county that has adopted the Uniform State Building Code and has and enforces on-site sewage disposal permitting.
- ~~(6)(5)}~~ All applications for on-site sewage disposal permits shall be accompanied by plans and specifications for the proposed system, including results of soils tests and other information as directed by the cabinet by regulation. ***If the site evaluation or approval of the system design is performed by a licensed professional engineer in private practice licensed by the Commonwealth of Kentucky, the application shall be accompanied by a statement by the engineer that he has met the requirements of the regulations issued by the Cabinet for site evaluation and system design.*** Any action to deny an application shall be subject to appeal, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.
- ~~(7)(6)}~~ The cabinet shall fix a schedule of fees for the functions performed by the cabinet relating to the regulation of on-site sewage disposal systems. The fees shall be designed to fully cover the cost of the service performed but shall not exceed the cost of the service performed. Fees payable to the cabinet shall be paid into the State Treasury and credited to a trust and agency fund to be used by the cabinet in carrying out its responsibilities relating to the regulation of on-site sewage disposal systems. No part of the fund shall revert to the general fund of the Commonwealth.
- ~~(8)(7)}~~ Any regulation relating to on-site sewage disposal that is in effect on July 15, 1992, shall remain in effect until altered by the secretary. The secretary may issue additional regulations necessary to carry out the purposes of this section.
- ~~(9)(8)}~~ Nothing in this section shall authorize or allow the cabinet to inspect or take enforcement action against on-site sewage disposal systems installed on farmsteads prior to July 15, 1992, or modifications to those systems unless the actions are determined in writing by the cabinet, upon a written, verified complaint, to be necessary to prevent imminent harm or damage to the safety, life, or health of a person. In this instance, the cabinet shall deliver to the landowner a copy of the written determination and the verified complaint prior to the commencement of the inspection or enforcement action.

Section 2. Whereas the backlog of inspection and certification for on-site sewage disposal systems represents an intolerable burden to both homeowners and local health departments, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved March 19, 2001

CHAPTER 118

(HB 259)

AN ACT relating to nonelected city offices and officers.

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

Section 1. KRS 83A.080 is amended to read as follows:

- (1) All nonelected city offices shall be created by ordinance which shall specify:
 - (a) Title of office;
 - (b) Powers and duties of office;
 - (c) Oath of office;
 - (d) Bond, if required; and

- (e) Compensation which may be specifically established or set by reference to another ordinance in which the compensation is specifically established.
- (2) *A city may create nonelected offices other than those referred to in this subsection. For purposes of the requirements of this section, the following shall be considered nonelected offices:*
 - (a) *City clerk;*
 - (b) *City manager;*
 - (c) *City administrator;*
 - (d) *Chief of police; and*
 - (e) *Fire chief, other than a volunteer fire chief.*
- (3) All nonelected city officers shall be appointed by the executive authority of the city and, except in cities of the first class, all these appointments shall be with approval of the city legislative body if separate from the executive authority. The officers may be removed by the executive authority at will unless otherwise provided by statute or ordinance. *Upon removal of a nonelected officer at will, the executive authority shall give the officer a written statement setting forth the reason or reasons for the removal. However, this requirement shall not be construed as limiting in any way the at will dismissal power of the executive authority.*
- ~~(4)(3)~~ Each appointed and elected city office existing upon adoption of this chapter shall continue until abolished by ordinance, except that the offices of mayor and legislative body members may not be abolished. No abolition of any elected office shall take effect until expiration of the term of the current holder of the office. No ordinance abolishing any elected office shall be enacted later than two hundred forty (240) days preceding the regular election for that office, except in the event of a vacancy in the office.
- ~~(5)(4)~~ No city may create any elected office. Existing elected offices may be continued under provision of subsection (3) of this section, but no existing elected office may be changed.

Approved March 19, 2001

CHAPTER 119

(HB 329)

AN ACT to revise and correct the Kentucky Revised Statutes.

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

PART A

LEGISLATIVE FINDINGS AND DECLARATIONS

Section 1. The General Assembly finds and declares as follows:

(1) Sections 2 to 12 of this Act repeal and reenact versions of KRS 355.9-106, 355.9-109, 355.9-203, 355.9-208, 355.9-305, 355.9-309, 355.9-313, 355.9-322, 355.9-328, 355.9-406, and 355.9-407 that become effective July 1, 2001, to ratify and confirm action by the Reviser of Statutes in codifying those versions as they were enacted by 2000 Ky. Acts ch. 408. In codification, the Reviser had corrected under KRS 7.136(1)(h) incorrect internal cross-references that had resulted from the amendment process to make the text consistent with the official text of Revised Article 9 of the Uniform Commercial Code.

(2) 2000 Ky. Acts ch. 408, sec. 90, mistakenly purported to create a new KRS 355.9-408, effective July 1, 2001, although this statute was already in existence, having been created by 1986 Ky. Acts ch. 118, sec. 81. It was intended in 2000 Ky. Acts ch. 408 that the existing KRS 355.9-408 be repealed and reenacted to contain the text of Section 9-408 of the current Revised Article 9 of the Uniform Commercial Code. The repeal and reenactment of KRS 355.9-408 in Section 13 of this Act repeals both existing versions of that statute and reenacts the version that becomes effective July 1, 2001, without change.

(3) Sections 14 and 15 of this Act amend versions of KRS 355.5-103 and 355.8-110 that become effective July 1, 2001, to correct inadvertent drafting oversights that failed to make the enacted text of these statutes match the official text of Revised Article 9 of the Uniform Commercial Code.

(4) Revised Article 9 of the Uniform Commercial Code eliminates the determination of residency provisions contained in the current KRS 355.9-401(5)(b) to (k), and 2000 Ky. Acts ch. 408, sec. 179, amended KRS 186A.190, effective July 1, 2001, to incorporate expressly this existing statutory text. Because of this action, the amendment to KRS 365.015 contained in Section 16 of this Act should have been included in 2000 Ky. Acts ch. 408 as a conforming change but was overlooked. This oversight is rectified by Section 16 of this Act.

(5) The repeal of KRS 14.150 set out in Section 17 of this Act should have been included in 2000 Ky. Acts ch. 408 as a conforming change because provisions of the Revised Article 9 of the Uniform Commercial Code supersede and eliminate the need for the Kentucky Lien Information System established by KRS 14.150.

PART B

REPEALS AND REENACTMENTS

OF EXISTING STATUTES

Section 2. KRS 355.9-106, as effective July 1, 2001, is repealed and reenacted to read as follows:

- (1) A person has control of a certificated security, uncertificated security, or security entitlement as provided in KRS 355.8-106.
- (2) A secured party has control of a commodity contract if:
 - (a) The secured party is the commodity intermediary with which the commodity contract is carried; or
 - (b) The commodity customer, secured party, and commodity intermediary have agreed that the commodity intermediary will apply any value distributed on account of the commodity contract as directed by the secured party without further consent by the commodity customer.
- (3) A secured party having control of all security entitlements or commodity contracts carried in a securities account or commodity account has control over the securities account or commodity account.

Section 3. KRS 355.9-109, as effective July 1, 2001, is repealed and reenacted to read as follows:

- (1) Except as otherwise provided in subsections (3) and (4) of this section, this article applies to:
 - (a) A transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;
 - (b) An agricultural lien;
 - (c) A sale of accounts, chattel paper, payment intangibles, or promissory notes;
 - (d) A consignment;
 - (e) A security interest arising under KRS 355.2-401, 355.2-505, 355.2-711(3), or 355.2A-508(5), as provided in KRS 355.9-110; and
 - (f) A security interest arising under KRS 355.4-210 or 355.5-118.
- (2) The application of this article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this article does not apply.
- (3) This article does not apply to the extent that:
 - (a) A statute, regulation, or treaty of the United States preempts this article;
 - (b) Another statute of this Commonwealth expressly governs the creation, perfection, priority, or enforcement of a security interest created by this Commonwealth or a governmental unit of this Commonwealth;
 - (c) A statute of another state, a foreign country, or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority, or enforcement of a security interest created by the state, country, or governmental unit; or
 - (d) The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under KRS 355.5-114.
- (4) This article does not apply to:
 - (a) A landlord's lien, other than an agricultural lien;

- (b) A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but KRS 355.9-333 applies with respect to priority of the lien;
- (c) An assignment of a claim for wages, salary, or other compensation of an employee, or for workers' compensation benefits payable to an individual;
- (d) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;
- (e) An assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only;
- (f) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;
- (g) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;
- (h) A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but KRS 355.9-315 and 355.9-322 apply with respect to proceeds and priorities in proceeds;
- (i) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;
- (j) A right of recoupment or set-off, but:
 - 1. KRS 355.9-340 applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and
 - 2. KRS 355.9-404 applies with respect to defenses or claims of an account debtor;
- (k) The creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:
 - 1. Liens on real property in KRS 355.9-203 and 355.9-308;
 - 2. Fixtures in KRS 355.9-334;
 - 3. Fixture filings in KRS 355.9-501, 355.9-502, 355.9-512, 355.9-516, and 355.9-519; and
 - 4. Security agreements covering personal and real property in KRS 355.9-604;
- (l) An assignment of a claim arising in tort, other than a commercial tort claim, but KRS 355.9-315 and 355.9-322 apply with respect to proceeds and priorities in proceeds;
- (m) An assignment of a deposit account in a consumer transaction, but KRS 355.9-315 and 355.9-322 apply with respect to proceeds and priorities in proceeds;
- (n) A claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. sec. 104(a)(1) or (2), as amended from time to time;
- (o) A claim or right to receive benefits under a special needs trust as described in 42 U.S.C. sec. 1396p(d)(4), as amended from time to time; or
- (p) A right to receive money under a structured settlement as defined by KRS 454.430.

Section 4. KRS 355.9-203, as effective July 1, 2001, is repealed and reenacted to read as follows:

- (1) A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.
- (2) Except as otherwise provided in subsections (3) to (9) of this section, a security interest is enforceable against the debtor and third parties with respect to the collateral only if:
 - (a) Value has been given;

- (b) The debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and
- (c) One (1) of the following conditions is met:
 - 1. The debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;
 - 2. The collateral is not a certificated security and is in the possession of the secured party under KRS 355.9-313 pursuant to the debtor's security agreement;
 - 3. The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under KRS 355.8-301 pursuant to the debtor's security agreement; or
 - 4. The collateral is deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights, and the secured party has control under KRS 355.9-104, 355.9-105, 355.9-106, or 355.9-107 pursuant to the debtor's security agreement.
- (3) Subsection (2) of this section is subject to KRS 355.4-210 on the security interest of a collecting bank, KRS 355.5-118 on the security interest of a letter-of-credit issuer or nominated person, KRS 355.9-110 on a security interest arising under Article 2 or 2A of this chapter, and KRS 355.9-206 on security interests in investment property.
- (4) A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than this article or by contract:
 - (a) The security agreement becomes effective to create a security interest in the person's property; or
 - (b) The person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.
- (5) If a new debtor becomes bound as debtor by a security agreement entered into by another person:
 - (a) The agreement satisfies subsection (2)(c) of this section with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement; and
 - (b) Another agreement is not necessary to make a security interest in the property enforceable.
- (6) The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by KRS 355.9-315 and is also attachment of a security interest in a supporting obligation for the collateral.
- (7) The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien.
- (8) The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.
- (9) The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.

Section 5. KRS 355.9-208, as effective July 1, 2001, is repealed and reenacted to read as follows:

- (1) This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.
- (2) Within ten (10) days after receiving an authenticated demand by the debtor:
 - (a) A secured party having control of a deposit account under KRS 355.9-104(1)(b) shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party;
 - (b) A secured party having control of a deposit account under KRS 355.9-104(1)(c) shall:
 - 1. Pay the debtor the balance on deposit in the deposit account; or
 - 2. Transfer the balance on deposit into a deposit account in the debtor's name;

- (c) A secured party, other than a buyer, having control of electronic chattel paper under KRS 355.9-105 shall:
 - 1. Communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;
 - 2. If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and
 - 3. Take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party;
- (d) A secured party having control of investment property under KRS 355.8-106(4)(b) or 355.9-106(2) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party; and
- (e) A secured party having control of a letter-of-credit right under KRS 355.9-107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party.

Section 6. KRS 355.9-305, as effective July 1, 2001, is repealed and reenacted to read as follows:

- (1) Except as otherwise provided in subsection (3) of this section, the following rules apply:
 - (a) While a security certificate is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby.
 - (b) The local law of the issuer's jurisdiction as specified in KRS 355.8-110(4) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security.
 - (c) The local law of the securities intermediary's jurisdiction as specified in KRS 355.8-110(5) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account.
 - (d) The local law of the commodity intermediary's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account.
- (2) The following rules determine a commodity intermediary's jurisdiction for purposes of this part of this article:
 - (a) If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of this part of this article, this article, or this chapter, that jurisdiction is the commodity intermediary's jurisdiction.
 - (b) If paragraph (a) of this subsection does not apply and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.
 - (c) If neither paragraph (a) nor paragraph (b) of this subsection applies and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.
 - (d) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located.

- (e) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.
- (3) The local law of the jurisdiction in which the debtor is located governs:
 - (a) Perfection of a security interest in investment property by filing;
 - (b) Automatic perfection of a security interest in investment property created by a broker or securities intermediary; and
 - (c) Automatic perfection of a security interest in a commodity contract or commodity account created by a commodity intermediary.

Section 7. KRS 355.9-309, as effective July 1, 2001, is repealed and reenacted to read as follows:

The following security interests are perfected when they attach:

- (1) A purchase-money security interest in consumer goods, except as otherwise provided in KRS 355.9-311(2) with respect to consumer goods that are subject to a statute or treaty described in KRS 355.9-311(1);
- (2) An assignment of accounts or payment intangibles which does not by itself or in conjunction with other assignments to the same assignee transfer a significant part of the assignor's outstanding accounts or payment intangibles;
- (3) A sale of a payment intangible;
- (4) A sale of a promissory note;
- (5) A security interest created by the assignment of a health-care-insurance receivable to the provider of the health-care goods or services;
- (6) A security interest arising under KRS 355.2-401, 355.2-505, 355.2-711(3), or 355.2A-508(5), until the debtor obtains possession of the collateral;
- (7) A security interest of a collecting bank arising under KRS 355.4-210;
- (8) A security interest of an issuer or nominated person arising under KRS 355.5-118;
- (9) A security interest arising in the delivery of a financial asset under KRS 355.9-206(3);
- (10) A security interest in investment property created by a broker or securities intermediary;
- (11) A security interest in a commodity contract or a commodity account created by a commodity intermediary;
- (12) An assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee thereunder; and
- (13) A security interest created by an assignment of a beneficial interest in a decedent's estate.

Section 8. KRS 355.9-313, as effective July 1, 2001, is repealed and reenacted to read as follows:

- (1) Except as otherwise provided in subsection (2) of this section, a secured party may perfect a security interest in negotiable documents, goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under KRS 355.8-301.
- (2) With respect to goods covered by a certificate of title issued by this Commonwealth, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in KRS 355.9-316(4).
- (3) With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:
 - (a) The person in possession authenticates a record acknowledging that it holds possession of the collateral for the secured party's benefit; or
 - (b) The person takes possession of the collateral after having authenticated a record acknowledging that it will hold possession of collateral for the secured party's benefit.

- (4) If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs no earlier than the time the secured party takes possession and continues only while the secured party retains possession.
- (5) A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under KRS 355.8-301 and remains perfected by delivery until the debtor obtains possession of the security certificate.
- (6) A person in possession of collateral is not required to acknowledge that it holds possession for a secured party's benefit.
- (7) If a person acknowledges that it holds possession for the secured party's benefit:
 - (a) The acknowledgment is effective under subsection (3) of this section or KRS 355.8-301(1), even if the acknowledgment violates the rights of a debtor; and
 - (b) Unless the person otherwise agrees or law other than this article otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.
- (8) A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:
 - (a) To hold possession of the collateral for the secured party's benefit; or
 - (b) To redeliver the collateral to the secured party.
- (9) A secured party does not relinquish possession, even if a delivery under subsection (8) of this section violates the rights of a debtor. A person to which collateral is delivered under subsection (8) of this section does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this article otherwise provides.

Section 9. KRS 355.9-322, as effective July 1, 2001, is repealed and reenacted to read as follows:

- (1) Except as otherwise provided in this section, priority among conflicting security interests and agricultural liens in the same collateral is determined according to the following rules:
 - (a) Conflicting perfected security interests and agricultural liens rank according to priority in time of filing or perfection. Priority dates from the earlier of the time a filing covering the collateral is first made or the security interest or agricultural lien is first perfected, if there is no period thereafter when there is neither filing nor perfection.
 - (b) A perfected security interest or agricultural lien has priority over a conflicting unperfected security interest or agricultural lien.
 - (c) The first security interest or agricultural lien to attach or become effective has priority if conflicting security interests and agricultural liens are unperfected.
- (2) For the purposes of subsection (1)(a) of this section:
 - (a) The time of filing or perfection as to a security interest in collateral is also the time of filing or perfection as to a security interest in proceeds; and
 - (b) The time of filing or perfection as to a security interest in collateral supported by a supporting obligation is also the time of filing or perfection as to a security interest in the supporting obligation.
- (3) Except as otherwise provided in subsection (6) of this section, a security interest in collateral which qualifies for priority over a conflicting security interest under KRS 355.9-327, 355.9-328, 355.9-329, 355.9-330, or 355.9-331 also has priority over a conflicting security interest in:
 - (a) Any supporting obligation for the collateral; and
 - (b) Proceeds of the collateral if:
 - 1. The security interest in proceeds is perfected;
 - 2. The proceeds are cash proceeds or of the same type as the collateral; and

3. In the case of proceeds that are proceeds of proceeds, all intervening proceeds are cash proceeds, proceeds of the same type as the collateral, or an account relating to the collateral.
- (4) Subject to subsection (5) of this section and except as otherwise provided in subsection (6) of this section, if a security interest in chattel paper, deposit accounts, negotiable documents, instruments, investment property, or letter-of-credit rights is perfected by a method other than filing, conflicting perfected security interests in proceeds of the collateral rank according to priority in time of filing.
- (5) Subsection (4) of this section applies only if the proceeds of the collateral are not cash proceeds, chattel paper, negotiable documents, instruments, investment property, or letter-of-credit rights.
- (6) Subsections (1) to (5) of this section are subject to:
 - (a) Subsection (7) of this section and the other provisions of this part of this article;
 - (b) KRS 355.4-210 with respect to a security interest of a collecting bank;
 - (c) KRS 355.5-118 with respect to a security interest of an issuer or nominated person; and
 - (d) KRS 355.9-110 with respect to a security interest arising under Article 2 or 2A of this chapter.
- (7) A perfected agricultural lien on collateral has priority over a conflicting security interest in or agricultural lien on the same collateral if the statute creating the agricultural lien so provides.

Section 10. KRS 355.9-328, as effective July 1, 2001, is repealed and reenacted to read as follows:

The following rules govern priority among conflicting security interests in the same investment property:

- (1) A security interest held by a secured party having control of investment property under KRS 355.9-106 has priority over a security interest held by a secured party that does not have control of the investment property.
- (2) Except as otherwise provided in subsections (3) and (4) of this section, conflicting security interests held by secured parties each of which has control under KRS 355.9-106 rank according to priority in time of:
 - (a) If the collateral is a security, obtaining control;
 - (b) If the collateral is a security entitlement carried in a securities account and:
 1. If the secured party obtained control under KRS 355.8-106(4)(a), the secured party's becoming the person for which the securities account is maintained;
 2. If the secured party obtained control under KRS 355.8-106(4)(b), the securities intermediary's agreement to comply with the secured party's entitlement orders with respect to security entitlements carried or to be carried in the securities account; or
 3. If the secured party obtained control through another person under KRS 355.8-106(4)(c), the time on which priority would be based under this paragraph if the other person were the secured party; or
 - (c) If the collateral is a commodity contract carried with a commodity intermediary, the satisfaction of the requirement for control specified in KRS 355.9-106(2)(b) with respect to commodity contracts carried or to be carried with the commodity intermediary.
- (3) A security interest held by a securities intermediary in a security entitlement or a securities account maintained with the securities intermediary has priority over a conflicting security interest held by another secured party.
- (4) A security interest held by a commodity intermediary in a commodity contract or a commodity account maintained with the commodity intermediary has priority over a conflicting security interest held by another secured party.
- (5) A security interest in a certificated security in registered form which is perfected by taking delivery under KRS 355.9-313(1) and not by control under KRS 355.9-314 has priority over a conflicting security interest perfected by a method other than control.
- (6) Conflicting security interests created by a broker, securities intermediary, or commodity intermediary which are perfected without control under KRS 355.9-106 rank equally.
- (7) In all other cases, priority among conflicting security interests in investment property is governed by KRS 355.9-322 and 355.9-323.

Section 11. KRS 355.9-406, as effective July 1, 2001, is repealed and reenacted to read as follows:

- (1) Subject to subsections (2) to (9) of this section, an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.
- (2) Subject to subsection (8) of this section, notification is ineffective under subsection (1) of this section:
 - (a) If it does not reasonably identify the rights assigned;
 - (b) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article; or
 - (c) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:
 1. Only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;
 2. A portion has been assigned to another assignee; or
 3. The account debtor knows that the assignment to that assignee is limited.
- (3) Subject to subsection (8) of this section, if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (1) of this section.
- (4) Except as otherwise provided in subsection (5) of this section and KRS 355.2A-303 and 355.9-407, and subject to subsection (8) of this section, a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:
 - (a) Prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or
 - (b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.
- (5) Subsection (4) of this section does not apply to the sale of a payment intangible or promissory note.
- (6) Except as otherwise provided in KRS 355.2A-303 and 355.9-407 and subject to subsections (8) and (9) of this section, a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:
 - (a) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in the account or chattel paper; or
 - (b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.
- (7) Subject to subsection (8) of this section, an account debtor may not waive or vary its option under subsection (2)(c) of this section.
- (8) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.
- (9) This section does not apply to an assignment of a health-care-insurance receivable.

Section 12. KRS 355.9-407, as effective July 1, 2001, is repealed and reenacted to read as follows:

- (1) Except as otherwise provided in subsection (2) of this section, a term in a lease agreement is ineffective to the extent that it:
 - (a) Prohibits, restricts, or requires the consent of a party to the lease to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, an interest of a party under the lease contract or in the lessor's residual interest in the goods; or
 - (b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the lease.
- (2) Except as otherwise provided in KRS 355.2A-303(7), a term described in subsection (1)(b) of this section is effective to the extent that there is:
 - (a) A transfer by the lessee of the lessee's right of possession or use of the goods in violation of the term; or
 - (b) A delegation of a material performance of either party to the lease contract in violation of the term.
- (3) The creation, attachment, perfection, or enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is not a transfer that materially impairs the lessee's prospect of obtaining return performance or materially changes the duty of or materially increases the burden or risk imposed on the lessee within the purview of KRS 355.2A-303(4) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the lessor.

Section 13. KRS 355.9-408 is repealed and reenacted to read as follows:

- (1) Except as otherwise provided in subsection (2) of this section, a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:
 - (a) Would impair the creation, attachment, or perfection of a security interest; or
 - (b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.
- (2) Subsection (1) of this section applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note.
- (3) A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:
 - (a) Would impair the creation, attachment, or perfection of a security interest; or
 - (b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.
- (4) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (3) of this section would be effective under law other than this article but is ineffective under subsection (1) or (3) of this section, the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:
 - (a) Is not enforceable against the person obligated on the promissory note or the account debtor;
 - (b) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

- (c) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;
 - (d) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;
 - (e) Does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and
 - (f) Does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.
- (5) This section prevails over any inconsistent provisions of the following statutes and any administrative regulations based on those statutes: KRS 56.230(2), 138.320(3), 138.665(4), 138.720(5), 139.250, 154A.400(3), 190.047(1), 190.070(2)(c), 217B.535(2), 228.070(2), 230.300(9), 234.330(10), 243.630(2), 260.730(3), 260.815, 288.460(2), 292.320(2)(b), 294.036(3), 304.3-410(2)(f), 304.3-520(5), 333.080, 350.135(1), 365.430(27), and 368.070(2).
 - (6) Subsection (3) of this section does not apply to the following statutes and to administrative regulations promulgated under the authority of those statutes: KRS 304.2-260, KRS 304.24-420, Subtitle 33 of KRS Chapter 304, and Subtitle 37 of KRS Chapter 304.

PART C

AMENDMENTS OF EXISTING STATUTES

Section 14. KRS 355.5-103, as effective July 1, 2001, is amended to read as follows:

- (1) This article applies to letters of credit and to certain rights and obligations arising out of transactions involving letters of credit.
- (2) The statement of a rule in this article does not by itself require, imply, or negate application of the same or a different rule to a situation not provided for, or to a person not specified, in this article.
- (3) With the exception of this subsection, subsections (1) and (4) of this section, KRS 355.5-102(1)(i) and (j), 355.5-106(4), and 355.5-114(4), and *except* to the extent prohibited in KRS 355.1-102(3) and 355.5-117(4), the effect of this article may be varied by agreement or by a provision stated or incorporated by reference in an undertaking. A term in an agreement or undertaking generally excusing liability or generally limiting remedies for failure to perform obligations is not sufficient to vary obligations prescribed by this article.
- (4) Rights and obligations of an issuer to a beneficiary or a nominated person under a letter of credit are independent of the existence, performance, or nonperformance of a contract or arrangement out of which the letter of credit arises or which underlies it, including contracts or arrangements between the issuer and the applicant and between the applicant and the beneficiary.

Section 15. KRS 355.8-110, as effective July 1, 2001, is amended to read as follows:

- (1) The local law of the issuer's jurisdiction, as specified in subsection (4) of this section, governs:
 - (a) The validity of a security;
 - (b) The rights and duties of the issuer with respect to registration of transfer;
 - (c) The effectiveness of registration of transfer by the issuer;
 - (d) Whether the issuer owes any duties to an adverse claimant to a security; and
 - (e) Whether an adverse claim can be asserted against a person to whom transfer of a certificated or uncertificated security is registered or a person who obtains control of an uncertificated security.
- (2) The local law of the securities intermediary's jurisdiction, as specified in subsection (5) of this section, governs:
 - (a) Acquisition of a security entitlement from the securities intermediary;

- (b) The rights and duties of the securities intermediary and entitlement holder arising out of a security entitlement;
 - (c) Whether the securities intermediary owes any duties to an adverse claimant to a security entitlement; and
 - (d) Whether an adverse claim can be asserted against a person who acquires a security entitlement from the securities intermediary or a person who purchases a security entitlement or interest therein from an entitlement holder.
- (3) The local law of the jurisdiction in which a security certificate is located at the time of delivery governs whether an adverse claim can be asserted against a person to whom the security certificate is delivered.
- (4) "Issuer's jurisdiction" means the jurisdiction under which the issuer of the security is organized or, if permitted by the law of that jurisdiction, the law of another jurisdiction specified by the issuer. An issuer organized under the law of this Commonwealth may specify the law of another jurisdiction as the law governing the matters specified in subsection (1)(b) to (e) of this section.
- (5) The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:
- (a) If an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that a particular jurisdiction is the securities intermediary's jurisdiction for purposes of this part of this article, this article, or Article 9 of this chapter, that jurisdiction is the securities intermediary's jurisdiction.
 - (b) If paragraph (a) of this subsection does not apply and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.
 - (c) If neither paragraph (a) nor paragraph (b) applies and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.
 - (d) If none of the preceding paragraphs of this subsection applies, the securities intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the entitlement holder's account is located.
 - (e) If none of the preceding paragraphs of this subsection applies, the securities intermediary's jurisdiction is the jurisdiction in which ~~it is located~~ the chief executive office of the securities intermediary is located.
- (6) A securities intermediary's jurisdiction is not determined by the physical location of certificates representing financial assets, or by the jurisdiction in which is organized the issuer of the financial asset with respect to which an entitlement holder has a security entitlement, or by the location of facilities for data processing or other record keeping concerning the account.

Section 16. KRS 365.015 is amended to read as follows:

- (1) The real name of an individual shall include his or her surname at birth, or his or her name as changed by a court of competent jurisdiction, or the surname of a married woman; the real name of a domestic general partnership is that name which includes the real name of each of the partners; the real name of a registered limited liability partnership is the name stated in its statement of registered limited liability partnership filed under KRS Chapter 362; the real name of a domestic limited partnership is that name stated in its certificate of limited partnership filed pursuant to KRS Chapter 362; the real name of a domestic business trust is the name set forth in the declaration of trust; the real name of a domestic corporation is the name set forth in its articles of incorporation; and the real name of a domestic limited liability company is the name set forth in its articles of organization. The real name of a foreign general partnership, including a foreign registered limited liability partnership, or limited partnership and of a foreign business trust is the name recognized by the laws of the foreign state under which it is formed as being the real name or the fictitious name adopted for use in this state; the real name of a foreign registered limited liability partnership is the name stated in its statement of foreign registered limited liability partnership filed under KRS Chapter 362; the real name of a foreign corporation is the name set forth in its articles of incorporation or the fictitious name adopted for use in this state under KRS

271B.15-060; and the real name of a foreign limited liability company is the name set forth in its articles of organization or the fictitious name adopted for use in this state under KRS 275.410.

- (2) (a) No individual, general partnership, including a registered limited liability partnership, limited partnership, business trust, corporation, or limited liability company shall conduct or transact business in this state under an assumed name or any style other than his or its real name, as defined in subsection (1) of this section, unless such individual, partnership, limited partnership, business trust, corporation, or limited liability company has filed a certificate of assumed name;
- (b) The certificate shall state the assumed name under which the business will be conducted or transacted, the real name of the individual, partnership, limited partnership, business trust, corporation, or limited liability company and his or its address, including street and number, if any;
- (c) A separate certificate shall be filed for each assumed name;
- (d) No certificate to be filed with the Secretary of State shall set forth an assumed name which is not distinguishable upon the records of the Secretary of State from any other name previously filed and on record with the Secretary of State;
- (e) The certificate shall be executed for an individual, by the individual; for a general partnership, including a registered limited liability partnership, by at least one (1) partner authorized to do so by the partners; for a limited partnership, by a general partner; for a business trust, by the trustees; for a corporation, by any person authorized to act for the corporation; and for a limited liability company, by a member or manager authorized to act for the limited liability company.
- (3) The certificate of assumed name for an individual shall be filed with the county clerk where the person is deemed a resident~~[for the purposes of and]~~ under the provisions of KRS ~~186A.190(2)(a) to (j)~~~~[Chapter 355]~~. The certificate of assumed name for a general partnership, including a registered limited liability partnership, limited partnership, business trust, corporation, or limited liability company shall be delivered to the Secretary of State for filing, accompanied by one (1) exact or conformed copy. One (1) of the exact or conformed copies stamped as "filed" by the Secretary of State shall be filed with the county clerk of the county where the entity is deemed a resident~~[for the purposes of and]~~ under the provisions of KRS ~~186A.190(2)(a) to (j)~~~~[Chapter 355]~~. If the entity is not deemed a resident of a county in the Commonwealth, the entity shall file only with the Secretary of State.
- (4) An assumed name shall be effective for a term of five (5) years from the date of registration and may be renewed for successive terms upon filing a renewal certificate within six (6) months prior to the expiration of the term, in the same manner of filing the original certificate as set out in subsection (3) of this section. Any certificate in effect on July 15, 1998, shall continue in effect for five (5) years and may be renewed by filing a renewal certificate with the Secretary of State.
- (5) Upon discontinuing the use of an assumed name, the certificate shall be withdrawn by filing a certificate in the office wherein the original certificate of assumed name was filed. The certificate of withdrawal shall state the assumed name, the real name and address of the party transacting business and the date upon which the original certificate was filed. The certificate of withdrawal shall be signed for a general partnership, including a registered limited liability partnership, by at least one (1) partner authorized to do so by the partners, for a limited partnership by a general partner, for a business trust by the trustees, for a corporation by any person authorized to act for the corporation, and for a limited liability company by a member or manager authorized to act for the limited liability company.
- (6) A general partnership shall amend an assumed name to reflect a change in the identity of partners. The amendment shall set forth:
 - (a) The assumed name and date of original filing;
 - (b) A statement setting out the changes in identity of the partners; and
 - (c) Shall be signed by at least one (1) partner authorized to do so by the partners.
- (7) The county clerk shall receive a fee pursuant to KRS 64.012 for filing each certificate, and the Secretary of State shall receive a fee of twenty dollars (\$20) for filing each certificate, amendment, and renewal certificate.

PART D

REPEAL OF EXISTING STATUTES

Section 17. The following KRS section is repealed:

14.150 Kentucky Lien Information System.

PART E

NONCODIFIED PROVISIONS

Section 18. Nothing in this Act shall be construed under KRS 7.123(4) as appearing to effect any substantive change in the statute law of Kentucky, and the actions contained within this Act shall not operate under KRS 446.250 or 446.260 to defeat any amendments in other Acts of this 2001 Regular Session of the Kentucky General Assembly to the statutes contained in this Act.

Section 19. This Act takes effect July 1, 2001.

Approved March 19, 2001

CHAPTER 120

(HB 352)

AN ACT relating to health insurance.

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

Section 1. KRS 304.18-110 is amended to read as follows:

(1) As used in this section:

(a) "Group policy" means group health insurance policies as defined in KRS 304.18-020 and blanket health insurance policies which the commissioner, in his discretion, designates as subject to this section, which:

1. Affect the rights of a Kentucky insured and bear a reasonable relation to Kentucky, regardless of whether delivered or issued for delivery in Kentucky;
2. Provide hospital or surgical expenses benefits, other than for a specific disease or accidental injury only; and
3. Are delivered, issued for delivery, or renewed after July 15, 1986;

(b) "Medicare" means Title XVIII of the United States Social Security Act as amended or superseded.

(2) Persons insured under group policies have the right upon termination of group membership to continue coverage for themselves and their dependents upon meeting the following conditions:

- (a) The group member has been covered by the group policy or any group policy it replaced for at least three (3) months; and
- (b) Notice is given to the insurer and payment of the group rate is made to the insurer within thirty-one (31) days after notice pursuant to subsection (9){(10)} of this section.

(3) Continued group health insurance coverage shall terminate on the earlier of:

- (a) The date eighteen (18) months after the date on which the group coverage would otherwise have terminated because of termination of group membership;
- (b) If the group member fails to make timely payment of premium to the insurance company, the end of the period for which premium payment was made; or
- (c) The date the group policy is terminated and is not replaced by another group policy within thirty-one (31) days.~~[In the case of replacement coverage as provided in subsection (4) of this section, the replaced policy and insurer shall terminate continued group health coverage in the same manner that coverage is terminated for active employees.]~~

(4) *If a group policy is replaced, persons under the continued group health insurance shall remain under such coverage under the replaced policy until it terminates in accordance with subsection (3) of this section.*~~If an employer's group policy is terminated and replaced by a new group policy, subject to the termination~~

~~provisions contained in subsection (3) of this section, persons under continued group health insurance coverage under the replaced policy at the time of replacement shall be offered continued group health insurance coverage under the subsequent group policy under rules that are no less favorable to the person under continued group coverage than are available to similarly situated eligible employees. This subsection shall not be construed to prevent a change in group health coverage so long as the change does not directly discriminate against persons under continued group coverage and continues on the basis of health status related factors.~~

~~(5) Nothing in subsection (4) of this section shall be construed to begin a new eighteen (18) months period of continued group health insurance coverage eligibility under paragraph (a) of subsection (3) of this section. This eligibility shall be a continuous period of eighteen (18) consecutive months.~~

~~(5){{(6)}}~~ Group members have the right upon termination of coverage under a group policy for any reason to have a conversion health insurance policy providing substantially similar benefits issued to the group member by the insurer upon meeting the following conditions:

- (a) The group member has been covered by the group policy or any policy it replaced for at least three (3) months;
- (b) The group member must make written application to the insurer for conversion health insurance coverage not later than thirty-one (31) days after notice pursuant to subsection ~~(9){{(10)}}~~ of this section; and
- (c) The group member must pay the monthly, quarterly, semiannual, or annual premium, at the option of the applicant, to the insurer not later than thirty-one (31) days after notice pursuant to subsection ~~(9){{(10)}}~~ of this section.

~~(6){{(7)}}~~ Terms of conversion health insurance coverage:

- (a) Conversion health insurance coverage shall be available without evidence of insurability and shall contain no pre-existing condition limitations;
- (b) The premium for conversion health insurance coverage shall be according to the insurer's table of premium rates in effect on the latter of:
 - 1. The effective date of the converted policy; or
 - 2. The date of application when the premium rate applies to the class of risk to which the covered persons belong, to their ages, and to the form and amount of insurance provided;
- (c) The conversion health insurance policy shall cover the group member and eligible dependents covered by the group policy on the date coverage under the group policy terminated;
- (d) The effective date of the conversion health insurance policy shall be the date of termination of coverage under the group policy; and
- (e) The conversion health insurance policy shall provide benefits substantially similar to those provided by the group policy, but not less than the minimum standards set forth in KRS 304.18-120.

~~(7){{(8)}}~~ The right to continue group health insurance coverage and the right to conversion health insurance coverage shall also be available:

- (a) To the surviving spouse, at the death of the group member, with respect to the spouse and such children whose coverage under the group policy would terminate or terminates by reason of the death of the group member;
- (b) To a child solely with respect to himself upon termination of membership in the group or his coverage by reason of operation of the limiting age of coverage under the group policy while covered as a dependent thereunder; or
- (c) To a former spouse for himself and such children of whom he is awarded custody when coverage under the group policy would terminate or terminates by reason of termination of dependency as defined in the group policy and resulting from an order dissolving the marriage entered by a court of competent jurisdiction.

~~(8)(9)~~ Continuation of group health insurance coverage or conversion health insurance coverage need not be granted in the following situations:

- (a) The applicant is or could be covered by Medicare;
- (b) The applicant is or could be covered by another group coverage (insured or uninsured) or, in the case of conversion health insurance coverage, the applicant is covered by substantially similar benefits by another individual hospital, surgical, or medical expenses insurance policy; or
- (c) In the case of conversion health insurance coverage, the issuance of conversion health insurance coverage would cause the applicant to be overinsured according to the insurer's standards, taking into account that the applicant is or could be covered by similar benefits pursuant to or in accordance with the requirements of any statute and the individual coverage described in paragraph (b) of this subsection.

~~(9)(10)~~ Notice of the right to continue group health insurance coverage and the right to conversion health insurance coverage shall be given as follows:

- (a)
 1. For group policies delivered, issued for delivery, or renewed after July 15, 1986, the insurer shall give written notice of the right to continue group health insurance coverage and the right to conversion health insurance coverage to any group member entitled to continue coverage or to conversion coverage under this section upon notice from the group policyholder that the group member has terminated membership in the group or upon termination of continued group health insurance coverage. The thirty-one (31) day period of subsections (2)(b) and ~~(5)(6)(b)~~ of this section shall not begin to run until the notice required by this paragraph is mailed or delivered to the last known address of the group member; and
 2. Upon replacement of a group policy, the replacing insurer shall determine if there are group members who were covered under the previous group policy who are not covered under the replacing group policy. The replacing insurer shall by writing notify the insurer which issued the previous group policy of such lack of coverage and the insurer which issued the previous group policy shall issue the notice required by paragraph (a) of this subsection;
- (b) If a group member becomes entitled to obtain continued health insurance coverage or conversion health insurance coverage pursuant to this section and if such group member has not been given written notice of these rights pursuant to this subsection, such group member shall have an additional period within which to exercise continuation or conversion rights as follows:
 1. The additional period shall expire fifteen (15) days after the group member is given notice, but in no event shall the additional period extend beyond sixty (60) days after the expiration of the thirty-one (31) day period following termination from the group or termination of group coverage;
 2. Written notice delivered or mailed to the last known address of the group member shall constitute the giving of notice for the purpose of this paragraph; and
 3. If a group member makes application and pays the premium for continued health insurance coverage or conversion health insurance coverage within the additional period allowed by this paragraph, the effective date of continued health insurance coverage shall be the date of termination from the group and the effective date of conversion health insurance coverage shall be the date of termination of group health insurance coverage.

~~(10)(11)~~ Before a group policy may be replaced, the employer shall give at least thirty (30) days written notice by certified mail to any employee covered under the replaced policy who will not be covered under the new policy.

Approved March 19, 2001

CHAPTER 121

(HCR 8)

A CONCURRENT RESOLUTION directing the Interim Joint Committee on Appropriations and Revenue to study the development of passenger and freight rail initiatives in the Commonwealth and the elimination or

modification of the weight distance tax and the usage tax on motor carriers with the options for replacing the lost revenues from the elimination or modification of the weight distance tax and the usage tax on motor carriers.

WHEREAS, currently fifteen railroads operate over 2,811 miles of rail lines within the borders of the Commonwealth; and

WHEREAS, in 1998 a total of 4,185,072 carloads of freight were carried in the Commonwealth representing a total of 302,584,604 tons of freight; and

WHEREAS, in 1998 there were 5,763 rail employees living in Kentucky who were paid a total of \$311,461,000 in wages; and

WHEREAS, 15,926 railroad retirement beneficiaries were living in Kentucky in 1998 who were paid a total of \$170,344,496 in benefits; and

WHEREAS, in addition to the state's previous history of passenger rail service and the continued importance of freight rail service within the Commonwealth, the federal government has increased its commitment to expanding rail transportation through the last two federal transportation funding bills, commonly referred to as ISTEA and TEA-21; and

WHEREAS, TEA-21 provides \$950 million between 2000 and 2003 to encourage the development and construction of magnetic levitation passenger trains that travel in excess of 240 miles per hour; \$50 million in 2000 and 2001 for high-speed rail corridor planning and technology development programs; \$60 million between 2000 and 2003 to reduce or eliminate the hazards at highway-rail grade crossings in designated high-speed rail corridors; and \$70 million between 2000 and 2003 to fund pilot projects that demonstrate the public interest benefits associated with light density railroad and light rail's contribution to overall multimodal transportation systems; and

WHEREAS, at the time TEA-21 was enacted and provided this money for high-speed rail initiatives, Kentucky did not apply to receive any because there were no high-speed rail corridors that included the Commonwealth; and

WHEREAS, on October 11, 2000, U.S. Transportation Secretary Rodney Slater expanded the Mid-West High-Speed Rail Corridor to include service to Louisville, Kentucky; and

WHEREAS, now that Kentucky has been officially included in a high-speed rail corridor, it is imperative for the state to capitalize on applying for these limited federal dollars to offset costs associated with bringing plans for high-speed rail service to the Commonwealth; and

WHEREAS, there are now ten federally designated high-speed rail corridors across the nation, and it is hoped these corridors will ultimately serve 150 million people in 30 states; and

WHEREAS, it is hoped that this renewed commitment to revitalizing passenger, as well as freight rail services, should, at a minimum, transform the nation's mobility, improve the quality of life in urban areas, spearhead economic development efforts; and

WHEREAS, Kentucky stands to benefit greatly by developing rail initiatives in nonattainment areas of the state that are under mandates from the federal Environmental Protection Agency, including Louisville and Northern Kentucky, that are required to conduct vehicle emission tests; and

WHEREAS, piggyback rail service, connecting small towns to major rail freight hubs, is a key to economic development and job creation in rural Kentucky; and

WHEREAS, protection and preservation of underutilized and abandoned rail corridors will maintain the rail corridors necessary to foster piggyback service without significant new capital investment; and

WHEREAS, the state's traditional rural nature is rapidly changing in today's global economy and it is imperative for Kentucky to begin planning to keep in step with actions neighboring states are currently taking, and will continue to take, in the near future; and

WHEREAS, Kentucky imposes a weight distance tax on motor carriers weighing 60,000 pounds or more at a rate of \$0.0285 per mile; and

WHEREAS, 43,000 motor carriers are currently paying the weight distance tax; and

WHEREAS, weight distance tax and usage tax receipts, which go into the road fund, totaled approximately \$70,000,000 in FY 1999 and \$75,000,000 in FY 2000; and

WHEREAS, Kentucky imposes a usage tax of 6% on the purchase of motor vehicles; and

WHEREAS, weight distance tax and usage tax receipts are an important source of road fund revenue; and

WHEREAS, Kentucky is one of only four states in the nation which impose a weight distance tax; and

WHEREAS, Kentucky's trucking industry is concerned that the weight distance tax is inefficient, difficult to enforce, and burdensome, both for the state and for motor carriers; and

WHEREAS, Kentucky's trucking industry argues that the weight distance tax places it at a competitive disadvantage and that the usage tax has a negative impact on the growth and development of motor carriers in the Commonwealth; and

WHEREAS, the weight distance and usage tax issues need to be studied in a systematic, thoughtful, and objective manner;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The Interim Joint Committee on Appropriations and Revenue is directed to study the development of passenger and freight rail initiatives in the Commonwealth. The study shall identify short-term and long-term options for increasing passenger and freight rail service throughout Kentucky. The study shall develop an inventory of existing infrastructure, technology, and funding sources affecting both passenger and freight rail services within the Commonwealth. Similarly the study shall identify needed improvements to rail infrastructure, options for utilizing technology to increase passenger and freight rail service, options for preserving abandoned rail lines and corridors and methods of maximizing the state's ability to receive federal rail funds through TEA-21 and future federal transportation funding bills. The study shall review rail initiatives in states bordering the Commonwealth and identify steps necessary to develop a compatible rail network throughout Kentucky. The study shall also address the issues of the fairness and efficiency of the weight distance tax and usage taxes on motor carriers, the effect these taxes have on Kentucky's economy and the trucking industry, and the options for replacing revenue that would be lost if the taxes were eliminated or modified.

Section 2. The Interim Joint Committee on Appropriations and Revenue shall report its findings and recommendations to the Legislative Research Commission not later than November 1, 2001.

Section 3. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or a subcommittee thereof, and to designate a study completion date.

Approved March 19, 2001

CHAPTER 122

(SB 28)

AN ACT relating to election precinct boundaries and declaring an emergency.

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

Section 1. KRS 117.056 is amended to read as follows:

- (1) The provisions of KRS 117.055 notwithstanding, the county boards of elections shall maintain the boundaries of election precincts from July 15 of each year ending in "0" until the termination of the next following regular~~session of the General Assembly~~ or~~until the termination of any~~ extraordinary session of the General Assembly which enacts congressional and state legislative redistricting legislation following receipt of the decennial United States Census of Population~~, whichever shall occur at the earlier date~~.
- (2) If any county board of elections fails to perform the duty placed upon it by subsection (1) of this section, the State Board of Elections shall apply to the Circuit Court of the county for a writ of mandamus requiring the county board to perform this duty.

Section 2. Whereas, the November 7, 2000 adoption of the annual sessions amendment to the Kentucky Constitution necessitates clarification of KRS 117.056 prior to the adjournment of the 2001 Regular Session, an

emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved March 19, 2001

CHAPTER 123

(HB 185)

AN ACT relating to career and technical education.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

For purposes of Sections 1 to 4 of this Act:

- (1) *"Career and technical education" or "secondary vocational education" or "secondary vocational study" means a program of study that leads to the development of academic and specialized occupational skills in career fields;*
- (2) *"Technical literacy" means a student's ability to read and comprehend the language of a field of study, understand the major technical concepts of that field, and apply the appropriate mathematics concepts to typical problems encountered in the workplace;*
- (3) *"Secondary area technology center" or "secondary area center" means a school facility dedicated to the primary purpose of offering five (5) or more technical preparation programs that lead to skill development focused on specific occupational areas. An area center may be called a "magnet technology center" or "career center" or may be assigned another working title by the parent agency. An area center may be either state or locally operated; and*
- (4) *"Vocational department" means a portion of a school facility that has five (5) or more technical preparation programs that lead to skill development focused on specific occupational areas.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *The purposes of elementary and secondary education programs of career and technical education:*
 - (a) *Provide students opportunities to increase academic skills in mathematics, science, English, and communications as well as technical literacy in work-based settings;*
 - (b) *Provide students a variety of opportunities to master the usage of technology;*
 - (c) *Prepare individuals with specialized, transferable academic skills and technical skills for gainful employment in entry-level positions in broad-based career fields; and*
 - (d) *Assist individuals in the process of preparing for successful transition from school to work, or to postsecondary education, or to the military.*
- (2) *The General Assembly acknowledges that:*
 - (a) *Rigorous, high-quality career and technical education offers students an opportunity to develop skills in mathematics, science, communication, problem-solving, and career and technical areas that are essential to meet the goals for Kentucky education as described in KRS 158.6451 and to help students achieve the capacities required of all students and defined in KRS 158.645;*
 - (b) *Students need access to programs that meet high standards and connect technical skills with core academic requirements for high school students;*
 - (c) *Students can accelerate their overall scholastic achievement when given an opportunity to learn in an integrated school- and work-based environment; and*
 - (d) *The General Assembly has a responsibility to provide the resources that recognize the increased costs for offering high-quality, relevant technical programs.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *In order to ensure that high-quality, relevant secondary career and technical programs are available to students in all school districts that enable them to gain the academic and technical skills to meet high school graduation requirements and for successful transition to postsecondary education, work, or the military and to support present-day and future needs of Kentucky employers, the Kentucky Department of Education and the Department for Technical Education shall jointly implement a comprehensive plan between July 1, 2001, and January 1, 2004, to:*
 - (a) *Review and revise as needed the equipment and facilities standards for each career and technical education program identified and described in the career and technical supplement to the Kentucky program of studies and published by the Kentucky Department of Education; and*
 - (b) *Establish a needs assessment process tied to specific criteria for assisting all providers of programs in determining if the current programs offered in their respective facilities are appropriate for the students in the school districts served as well as for determining if new programs are needed.*
- (2) *Representatives from local school districts, the Kentucky Community and Technical College System, business and industry, colleges, universities, and other appropriate agencies shall be consulted in carrying out the requirements of this section.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Department of Education and the Department for Technical Education, with involvement of representatives from the local school districts and teacher preparation institutions, shall jointly complete an annual statewide analysis and report of academic achievement of technical education students who have completed or are enrolled in a sequence of a technical program of at least three (3) high school credits.*
- (2) *The analysis shall include the previous year's results from the Commonwealth Accountability Testing System. The data shall be disaggregated for all high school students by career cluster areas of agriculture, business and marketing, human services, health services, transportation, construction, communication, and manufacturing and by special populations. Where available, disaggregated data from other national assessments shall also be used.*
- (3) (a) *The Kentucky Department of Education with assistance from the Department for Technical Education shall coordinate the development of a statewide technical assistance plan to aid providers of programs in identifying areas for improvement for those schools that do not meet their school performance goal and for those schools where technical students as a group do not score equal to or better than the school average in each of the academic areas. The plan shall address methodologies for further analysis at each school including, but not limited to:*
 1. *The academic course-taking patterns of the technical students;*
 2. *The rigor and intensity of the technical programs and expectations for student performance in reading, math, science, and writing and other academic skills as well as in technical skill development;*
 3. *The level of communication and collaboration between teachers in technical programs and academic programs, planning, and opportunity for analyzing student achievement, particularly between faculty in the comprehensive high schools with the faculty in state-operated or locally operated secondary area centers and vocational departments;*
 4. *The faculties' understanding of Kentucky's program of studies, academic expectations, and core content for assessment;*
 5. *The knowledge and understanding of academic teachers and technical teachers in integrating mutually supportive curricula content;*
 6. *The level of curricula alignment and articulation in grades eight (8) to sixteen (16);*
 7. *The availability of extra help for students in meeting higher standards;*
 8. *The availability and adequacy of school career and guidance counseling;*
 9. *The availability and adequacy of work-based learning;*
 10. *The availability and adequacy of distance learning and educational technology;*

11. *The adequacy of involvement of business and industry in curricula, work-based learning, and program development; and*
12. *The adequacy of teachers' preparation to prepare them for teaching both academic and technical skills to all students that are necessary for successful transition to postsecondary education, work, or the military.*
- (b) *The departments in cooperation with teacher preparation programs, postsecondary education institutions, and other appropriate partners shall ensure that academic core content is imbedded or integrated within the performance requirements for students.*
- (c) *The departments in cooperation with the Kentucky Community and Technical College System shall encourage postsecondary education and business and industry to provide professional development and training opportunities to engage technical faculty in continuous improvement activities to enhance their instructional skills.*
- (d) *The departments shall continue efforts with business and industry to develop occupation skill standards and assessments. All efforts shall be made with the involvement of business, industry, and labor. Skill standards and assessments, where available, shall be used as the focus of the curricula.*
- (4) *The departments shall consult with the Education Professional Standards Board in carrying out the requirements of this section as they relate to teacher preparation.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section:*
 - (a) *"Secondary area technology center" or "secondary area center" means a school facility dedicated to the primary purpose of offering five (5) or more technical preparation programs that lead to skill development focused on specific occupational areas. An area center may be called a "magnet technology center" or "career center" or may be assigned another working title by the parent agency. An area center may be either state or locally operated; and*
 - (b) *"Vocational department" means a portion of a school facility that has five (5) or more technical preparation programs that lead to skill development focused on specific occupational areas.*
- (2) *The Kentucky Department of Education shall distribute all general funds designated for locally operated secondary area centers and vocational departments, which have been receiving state supplemental funds prior to the effective date of this Act, by a weighted formula, specified in an administrative regulation promulgated by the Kentucky Board of Education. The formula shall take into account the differences in cost of operating specific programs. The commissioners of the Kentucky Department of Education and the Department for Technical Education shall formally agree upon programs to be assigned to categories based on the descriptions found in paragraphs (a) to (c) of this subsection. Programs in Categories III and II shall be eligible for funding.*
 - (a) *Category III--High-cost technical programs: Programs in which students develop highly technical skills in specific occupational areas and that require high-cost equipment, materials, and facilities. This category may include selected industrial technology Level III programs as defined by the Department for Technical Education and programs in other occupational areas as deemed appropriate by both departments;*
 - (b) *Category II--Technical skill programs: Programs in which students develop technical skills focused in occupational areas and that require technical equipment but high-cost equipment, facilities, or materials are not necessary to operate the programs. This category may include selected industrial technology Level III programs as defined by the Department for Technical Education and programs in other occupational areas as deemed appropriate by both departments; and*
 - (c) *Category I--Orientation and career exploration programs: Programs that provide orientation and exploration of broad-based industries by giving students knowledge and experience regarding careers within these industries and develop some exploratory or hands-on skills used in the industry.*

Notwithstanding paragraphs (a) and (b) of subsection (1) of this section, the Department of Education shall approve the combining of eligible secondary vocational programs into a single vocational department for

purposes of funding for a school district that has been receiving state supplemental funds and has distributed its vocational programs, previously located in area centers, among magnet career academies.

- (3) *For calculation purposes and after categorizing the programs as described in subsection (2) of this section, a weight shall be applied as a percentage of the base guarantee per pupil in average daily attendance as defined by KRS 157.320 under the Support Education Excellence in Kentucky Program, which shall be applied to full-time equivalent students in Categories II and III. Category I programs shall receive no weight. The full-time equivalent students shall be calculated on the basis of the total program enrollment divided by the length of the class period divided by six (6).*

Section 6. 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. Specific weights for each category of exceptionality shall be used in the calculation of the add-on factor for exceptional children; and
 - (c) Transportation costs. The per-pupil cost of transportation shall be calculated as provided by KRS 157.370. 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.
- (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 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. 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.

- (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 Kentucky Board 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 annually 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.
- (14) ***Effective July 1, 2001, there shall be no deduction applied against the base funding level for any pupil in average daily attendance who spends a portion of his or her school day in a program at a state-operated career and technical education or vocational facility.***

Section 7. The General Assembly recognizes that in selected technical fields it is appropriate and necessary that persons become teachers based on demonstrated occupational and technical skills gained through work experience, rather than through initial college preparation. However with increased requirements for strong academic skills, the Education Professional Standards Board shall identify a work group by September 15, 2002, composed of representatives from the Kentucky Department of Education, the University Coordinating Committee that represents universities with technical education teacher preparation programs, the Department for Technical Education, the Kentucky Community and Technical College System, teachers, and administrators to review the current requirements for teachers in technical fields whose entry into teaching does not require a bachelor's degree. The work group shall review the current certification renewal processes, professional development and continuing education requirements, and the required sequence of course-taking patterns and make recommendations to the Education Professional Standards Board for revising the current certification requirements for those persons entering teaching, after July 1, 2003, if it is determined changes shall be in the best interests of students.

Section 8. Between July 1, 2001, and June 30, 2003, the Interim Joint Committee on Education shall:

- (1) Study the adequacy of the funding formula related to subsections (2) and (3) of Section 5 of this Act for locally operated area centers and vocational departments, considering a variety of funding methodologies to be used to provide adequate and equitable funding for secondary career and technical education programs as well as incentives to providers of career and technical education to encourage the development of new programs to address workforce needs;
- (2) Examine the current processes for assessing need, planning, funding, equipping, and operating new facilities. The examination shall look at the consistency of state policy in the overall development of programs and facilities to serve students in local school districts and communities and to ensure equity of opportunity for school districts and communities in the funding and support of new facilities; and
- (3) Consider options for a system of accountability in state-operated facilities relating to KRS 158.6455.

The study shall seek input from representatives of local school districts, state agencies, the private and public sectors as appropriate, and utilize consultants as needed. The study may be assigned to a subcommittee of the Interim Joint Committee. A report shall be prepared no later than August 1, 2003.

Approved March 19, 2001

CHAPTER 124

(HJR 70)

A JOINT RESOLUTION naming "The Don Duff Scenic Highway."

WHEREAS, Don Duff was a beloved native son of Perry County; and

WHEREAS, Don Duff was the devoted husband of Paulina and the dedicated father of two sons; and

WHEREAS, Don Duff was recognized nationally by Cattlemens' Associations for his pioneering work as a breeder of "Brangus" cattle; and

WHEREAS, Don Duff was a long time coal operator in Perry County; and

WHEREAS, in addition to being a successful businessman, Don Duff was a great humanitarian who actively pursued assisting his fellow man whenever possible; and

WHEREAS, for many years, Don Duff would come to the aid and rescue of the City of Hazard during inclement weather by bringing his coal equipment and removing snow from Kentucky Route 28 from the intersection with Kentucky Route 15 to the city limits of Buckhorn -- a distance of approximately sixty miles; and

WHEREAS, Don Duff personally maintained this sixty mile stretch of Kentucky Route 28 without ever asking for remuneration;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the General Assembly hereby posthumously declare Don Duff to be an outstanding Kentuckian and exemplary representative of the Commonwealth.

Section 2. The Transportation Cabinet is directed to rename Kentucky Route 28 in Perry County from the intersection with Kentucky Route 15 to the city limits of Buckhorn "The Don Duff Scenic Highway."

Section 3. The Transportation Cabinet shall, within thirty (30) days of the effective date of this Resolution, erect signs on Kentucky Route 28 at the intersection with Kentucky Route 15, at the city limits of Buckhorn, and periodically in-between, that read "The Don Duff Scenic Highway."

Approved March 20, 2001

CHAPTER 125

(SB 139)

AN ACT relating to the Legislative Program Review and Investigations Committee.

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

Section 1. KRS 6.905 is amended to read as follows:

- (1) There is created a Legislative Program Review and Investigations Committee which shall be a permanent standing committee of the General Assembly, consisting of eight (8) members of the Senate, six (6) of whom shall be appointed by the President and two (2) of whom shall be appointed by the Minority Leader of the Senate, and eight (8) members of the House of Representatives, six (6) of whom shall be appointed by the Speaker and two (2) of whom shall be appointed by the Minority Leader of the House of Representatives. At least one (1) appointee by each appointive authority shall be a member of the Senate or House Standing Committee on Appropriations and Revenue. The appointments shall be made within seven (7) legislative days of the end of each regular session of the General Assembly ***held in even-numbered years***, and the members so

appointed shall serve for a term of two (2) years coextensive with the biennium in which the appointment is made. Vacancies shall be filled within sixty (60) days of occurrence in the same manner as the original appointments, and for the balance of the term of the vacated member.

- (2) The committee shall select a chairman, cochairman, and other officers as it may deem necessary from among its membership. The chairman and cochairman shall be from different chambers of the General Assembly and shall serve a term of two (2) years; the chamber of origin for the chairman and cochairman shall alternate between the House of Representatives and the Senate. Officers shall be selected at the first meeting of the committee following the end of the regular session *in even-numbered years*. A majority of the membership shall constitute a quorum and all actions authorizing a study, dropping a study, or adopting a final report on any subject under study shall require the affirmative vote of a majority of the full committee membership. All other actions of the committee may be undertaken by an affirmative vote of a majority of a quorum of the committee.
- (3) When a study is instituted, the committee shall request that the Legislative Research Commission appoint the chairman and a ranking minority member, or their designees, of the committee of relevant jurisdiction to serve as nonvoting ex officio members of the committee in activities related to the relevant study. If the legislative committee that requested the study is a standing committee of one (1) of the houses of the General Assembly, the minority leader of that house shall appoint the ranking minority member. If the legislative committee that requested the study is an interim joint committee of the Legislative Research Commission, the ranking minority member shall be:
 - (a) A minority party member of the House of Representatives appointed by the House Minority Leader, if the chairman of the interim joint committee is a member of the Senate; or
 - (b) A minority party member of the Senate appointed by the Senate Minority Leader, if the chairman of the interim joint committee is a member of the House of Representatives.
- (4) Each regular and nonvoting ex officio member of the committee shall receive the same travel allowances and compensation for attending interim meetings of the committee as are received by members of subcommittees of the Legislative Research Commission under KRS 7.090(2).

Approved March 20, 2001

CHAPTER 126

(SJR 70)

A JOINT RESOLUTION naming the "Ron B. McCloud Drive."

WHEREAS, Ron B. McCloud is the proud and dedicated father of three; and

WHEREAS, Ron B. McCloud was Mayor of the City of Worthington in Greenup County for twelve years; and

WHEREAS, Ron B. McCloud was a respected Vice President of a bank in Greenup County while also committing his boundless energies to benefit the Greenup County Chamber of Commerce, economic development efforts for Greenup County, as well as the FIVCO Area Development District; and

WHEREAS, as the current Secretary of the Kentucky Public Protection and Regulation Cabinet, Ron B. McCloud is continuing his sterling record of service to the Commonwealth; and

WHEREAS, the Worthington City Council has requested the legislature to name a segment of Kentucky Route 244 in honor of Ron B. McCloud;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name Kentucky Route 244 in the City of Worthington from the end of Prospect Avenue to the Worthington city limits the "Ron B. McCloud Drive."

Section 2. The Transportation Cabinet shall, within thirty (30) days of the effective date of this Resolution, erect signs in the City of Worthington at the intersection of Kentucky Route 244 and Prospect Avenue and at the intersection of Kentucky Route 244 with the city limits of the City of Worthington that read the "Ron B. McCloud Drive."

Approved March 20, 2001

CHAPTER 127

(SB 69)

AN ACT relating to public utilities boards.

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

Section 1. KRS 96.780 is amended to read as follows:

- (1) After a board has been appointed and qualified, it shall have charge of the general supervision and control of the acquisition, improvement, operation and maintenance of the electric plant of the municipality. The board shall employ an electric plant superintendent (herein called "superintendent"), who shall be qualified by training and experience for the general superintendence of the acquisition, improvement and operation of the electric plant. His salary shall be fixed by the board. The superintendent shall be removable by the board for inefficiency, neglect of duty, misfeasance, or malfeasance in office. He shall be required to execute a bond, in a sum to be determined and approved by the board, conditioned upon the faithful performance of his official duties. The cost of the bond may be charged as an expense of the operation of the electric plant.
- (2) Within the limits of the funds available therefor, all powers of a municipality to acquire, improve, operate and maintain, and to furnish electric service, and all powers necessary or convenient thereto, conferred by KRS 96.550 to 96.900, shall be exercised on behalf of the municipality by the board and the superintendent, respectively. Subject to the provisions of applicable bonds or contracts, the board shall determine programs and make all plans for the acquisition of the electric plant, shall make all determinations as to improvements, rates and financial practices, may establish such rules and regulations as it deems necessary or appropriate to govern the furnishing of electric service, and may disburse all moneys available in the electric plant fund hereinafter established for the acquisition, improvement, operation and maintenance of the electric plant and the furnishing of electric service.
- (3) A copy of the schedule of the current rates and charges in effect from time to time and a copy of all rules and regulations of the board relating to electric service shall be kept on public file at the main and all branch offices of the electric plant and also in the office of the municipal clerk or recorder. The superintendent shall have charge of all actual construction, the immediate management and operation of the electric plant and the enforcement and execution of all rules, regulations, programs, plans and decisions made or adopted by the board.
- (4) The superintendent shall appoint all employees and fix their duties and compensation subject to and with the approval of the board. Subject to the limitations and provisions of KRS 96.550 to 96.900, the superintendent, with the approval of the board, may acquire and dispose of all property, real and personal, necessary to effectuate the purposes of KRS 96.550 to 96.900. The title to all property purchased or acquired shall be taken in the corporate name of the board.
- (5) The superintendent shall let all contracts, subject to the approval of the board, but may, without such approval, obligate the electric plant on purchase orders up to an amount to be fixed by the board, not to exceed ~~twenty-five~~ thousand dollars ~~\$(5,000)}~~ **\$20,000**. All contracts shall be in the corporate name of the board and shall be signed by the superintendent and attested by the secretary-treasurer or chairman of the board. The superintendent shall make and keep or cause to be made and kept full and proper books and records, subject to the supervision and direction of the board, and the provisions of applicable contracts.

Approved March 20, 2001

CHAPTER 128

(SB 2)

AN ACT relating to environmental protection.

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

SECTION 1. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 12 and Sections 13, 14, 15, and 16 of this Act are intended to establish an efficient and predictable process, within the context of KRS 224.01-400 and 224.01-405, to promote voluntary cleanup and redevelopment of properties suspected of environmental contamination. This process will further the public purposes of protecting human health, safety, and the environment while stimulating economic development and job creation through the construction of new residential, commercial, and industrial facilities. Sections 1 to 12 and Sections 13, 14, 15, and 16 of this Act shall not apply to radioactive material facilities licensed under KRS 211.842 to 211.852 and the administrative regulations promulgated under these sections.

SECTION 2. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 12 of this Act:

- (1) *"Hazardous substance" shall have the meaning in KRS 224.01-400(1)(a) and also include any pollutant or contaminant, as those terms are defined in KRS 224.01-400(1)(f), any hazardous substance, pollutant, or contaminant designated by the cabinet in accordance with KRS 224.01-400(2), and any hazardous substance included in KRS 224.01-400(3);*
- (2) *"Petroleum" shall have the meaning set forth in KRS 224.60-115(15);*
- (3) *"Petroleum storage tank" shall have the meaning set forth in KRS 224.60-115(16);*
- (4) *"Property" means a tract of real property for which an application has been submitted under Section 3 of this Act;*
- (5) *"Remediation" means the characterization of a release of a hazardous substance or petroleum, in accordance with KRS 224.01-400(18) for hazardous substances or KRS 224.01-405 for petroleum, and actions necessary to correct the effects of the release on the environment, as required by KRS 224.01-400 for hazardous substances, pollutants, or contaminants or KRS 224.01-405 for petroleum; and*
- (6) *"Site" shall have the meaning in KRS 224.01-400(1)(c).*

SECTION 3. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) *A Voluntary Environmental Remediation Program is established and shall be administered by the cabinet in accordance with Sections 1 to 12 of this Act.*
- (2) *Any person may apply to enter a property in the program, unless:*
 - (a) *The property is part of or contains a site which is on the National Priorities List established by the United States Environmental Protection Agency;*
 - (b) *The property is part of or contains a hazardous waste treatment, storage, or disposal facility for which a permit has been issued, or the site is otherwise the subject of hazardous waste closure or corrective action pursuant to KRS 224.46-520 or KRS 224.46-530;*
 - (c) *The property or site is the subject of state or federal environmental enforcement action relating to the release, for which the application is submitted; or*
 - (d) *The property or site presents an environmental emergency, as defined in KRS 224.01-400.*
- (3) *To apply to enter the voluntary environmental remediation program, an applicant shall:*
 - (a) *Respond accurately and completely to all questions on an application provided by the cabinet;*

- (b) *Identify any hazardous substance and any petroleum released or believed to be released to the environment at the site and provide a characterization plan for the releases or threatened releases adequate to comply with KRS 224.01-400, KRS 224.01-405, Sections 1 to 12 of this Act, and any administrative regulations promulgated pursuant thereto;*
- (c) *Submit a nonrefundable application fee. The fee shall be one thousand dollars (\$1,000) for properties up to three (3) acres in size. The fee for properties greater than three (3) acres but less than ten (10) acres shall be two thousand five hundred dollars (\$2,500). The fee for properties of ten (10) acres or larger shall be three thousand five hundred dollars (\$3,500). However, a political subdivision of the state, and its agencies and instrumentalities, shall be exempt from paying the fee for properties that are publicly owned; and*
- (d) *Publish the notice of application in the newspaper of largest circulation in the county in which the site is located.*
- (4) *Fees and costs collected under Sections 1 to 12 of this Act shall be deposited in the hazardous waste management fund set out in KRS 224.46-580(13). The cabinet shall use the fees and costs to administer the voluntary environmental remediation program.*
- (5) *The cabinet shall, if requested, meet with the applicant either before or after submittal of an application to discuss the sufficiency of the application.*
- (6) *The cabinet shall notify the Department for Public Health when the cabinet receives an application with information pertaining to an actual or threatened release of a hazardous substance over which the Department for Public Health has regulatory authority.*
- (7) *When an application for entry into the voluntary environmental remediation program is filed, the applicant shall notify the chief executive of local governmental units in which the property or site that is the subject of the application is located and shall provide the chief executives with a copy of the application. Copies of the following documents shall be transmitted by the applicant, as they become available, to the local public library:*
 - (a) *Agreed order;*
 - (b) *Characterization plan;*
 - (c) *Characterization report;*
 - (d) *Corrective action plan;*
 - (e) *Corrective action completion report;*
 - (f) *Any notices of deficiency and any responses thereto; and*
 - (g) *Covenant not to sue.*

SECTION 4. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) *The cabinet shall notify an applicant for the voluntary environmental remediation program within forty-five (45) working days of receipt of the application as to whether the application is accepted or denied.*
- (2) *The cabinet shall deny an application if:*
 - (a) *The cabinet determines the property is ineligible to participate in the program under the provisions of Sections 1 to 12 of this Act;*
 - (b) *The cabinet withdraws from agreed order negotiations pursuant to the provisions of Section 5 of this Act; or*
 - (c) *The application is not complete.*
- (3) *If the cabinet denies an application, the cabinet shall notify the applicant in writing, stating the reasons for the denial. If the reason for denial is incompleteness, the cabinet shall inform the applicant of the information needed to make the application complete.*

- (4) *The applicant may submit, within ninety (90) working days of receipt of the initial denial notice, a completed or revised application without incurring an additional fee.*
- (5) *Within forty-five (45) working days of resubmittal, the cabinet shall review any revised or completed application and notify the applicant in writing of its determination to accept or deny the application. If the cabinet denies the application again for incompleteness, the cabinet shall again inform the applicant of the information needed to make the application complete. The cabinet may assess a new application fee for the resubmittal.*
- (6) *If the applicant's second revised application fails to provide the information necessary to address all the concerns of the cabinet, the applicant and the cabinet may meet to clarify the cabinet's expectations and concerns.*

SECTION 5. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) *Once an application is accepted, the applicant and the cabinet shall enter into an agreed order which shall set forth the mutual responsibilities of the parties with respect to the remediation project.*
- (2) *A voluntary remediation agreed order shall include:*
 - (a) *The applicant's agreement to:*
 - 1. *Identify any hazardous substance and any petroleum released or believed to be released to the environment at the site and provide a characterization plan for the releases or threatened releases adequate to comply with KRS 224.01-400, KRS 224.01-405, Sections 1 to 12 of this Act, and any administrative regulations promulgated pursuant thereto;*
 - 2. *Submit to the cabinet on the agreed schedule a characterization report and a corrective action plan complying with KRS 224.01-400, KRS 224.01-405, Sections 1 to 12 of this Act, and any administrative regulations promulgated pursuant thereto within one hundred twenty (120) days after the date the agreed order is entered by the secretary of the cabinet, or such longer period agreed upon by the parties; and*
 - 3. *Submit to the cabinet a corrective action report by the date agreed upon by the parties. The corrective action report shall contain a certification by the applicant that the remediation has been completed in accordance with the approved corrective action plan;*
 - (b) *A general listing of the estimated costs the cabinet expects to incur for its review and oversight of the remediation;*
 - (c) *The applicant's agreement to reimburse the cabinet for all reasonable actual and necessary costs of review and oversight that exceed the program's application fee, along with a schedule of the applicant's payments to reimburse the cabinet for its costs. The cabinet may waive in whole or in part its right to be reimbursed its costs related to properties of less than three (3) acres if the cabinet determines the waiver will best serve the public interest, in which case the agreed order shall note the waiver determination;*
 - (d) *The applicant's agreement to complete remediation on the agreed schedule in compliance with the approved corrective action plan;*
 - (e) *A requirement that records related to the site's remediation be retained and provided to the cabinet on request;*
 - (f) *A provision that the applicant may withdraw from the agreed order prior to issuance of the covenant not to sue, and have no further obligations thereunder, subject to payment of the cabinet's costs incurred prior to the withdrawal and the cabinet's reservation of its rights; and*
 - (g) *Any other provisions the cabinet determines are necessary to protect human health, safety, and the environment, or to effectuate the purposes of Sections 1 to 12 of this Act.*
- (3) *If the applicant and the cabinet are unable to negotiate an agreement in good faith within a reasonable time after negotiations have commenced, either party may withdraw from further negotiations.*

SECTION 6. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) *Upon execution of an agreed order, the applicant shall submit to the cabinet within the agreed timeframe a site characterization report and a corrective action plan.*
- (2) *The corrective action plan for properties involving hazardous substances over which the Department for Public Health has regulatory authority shall, at the time of submittal to the cabinet, also be submitted to the commissioner of the Department for Public Health.*
- (3) *A corrective action plan shall comply with KRS 224.01-400, KRS 224.01-405, Sections 1 to 12 of this Act, and any administrative regulations promulgated under these statutes, and shall include:*
 - (a) *Detailed documentation of the characterization conducted by the applicant to determine the nature and extent of the release or threatened release as required under KRS 224.01-400 and 224.01-405 and a description of any remediation performed on the site;*
 - (b) *A description of any corrective action and additional characterization proposed to complete the remediation in accordance with KRS 224.01-400 and 224.01-405, together with a proposed schedule for implementation;*
 - (c) *Descriptions of sampling and analysis methods, techniques, and results, and quality assurance methods and controls used or proposed;*
 - (d) *A description of measures to protect human health and safety during the remediation;*
 - (e) *A plan of action to inform the public about the remediation and redevelopment of the property and to provide for meaningful public comment;*
 - (f) *Identification of any limitations on land use or activity proposed for the site;*
 - (g) *Identification of any petroleum storage tanks on the site and an outline of how the applicant intends to comply with Subchapter 60 of KRS Chapter 224 and 401 KAR Chapter 42; and*
 - (h) *A requirement to update the corrective action plan to characterize and remediate releases discovered or caused during characterization or corrective action.*

SECTION 7. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) *Within one hundred and twenty (120) working days of receipt of a corrective action plan, the cabinet shall:*
 - (a) *Review and evaluate the characterization and the corrective action plan for compliance with the agreed order, KRS 224.01-400, KRS 224.01-405, Sections 1 to 12 of this Act, and any administrative regulations promulgated under these statutes, and if necessary, inspect the property and any relevant conditions in the area surrounding the property; and*
 - (b) *Approve or deny the corrective action plan.*
- (2) *The cabinet may request an applicant to submit additional or corrected information during the applicable evaluation period. If the cabinet makes a request, the applicant may:*
 - (a) *Comply with the request by notifying the cabinet in writing and submitting the additional or corrected information within thirty (30) days after receiving the cabinet's request. From the date of the request by the cabinet until the additional or corrected information is submitted to the cabinet, the applicable evaluation period shall be suspended; or*
 - (b) *Request a final determination in accordance with KRS 224.01-400(22) within thirty (30) days after receiving the cabinet's request.*
- (3) *If the cabinet approves a corrective action plan, the cabinet shall, in writing, notify the applicant and commenters.*
- (4) *The cabinet shall deny a corrective action plan for failure to comply with KRS 224.01-400, KRS 224.01-405, Sections 1 to 12 of this Act, or any administrative regulations promulgated under these statutes. The cabinet may deny a corrective action plan for failure to respond to its request for information. If the cabinet denies a corrective action plan, it shall notify, in writing, the applicant and commenters, specifying the reasons for the denial. The cabinet shall also inform the applicant of the right to appeal the decision in accordance with KRS 224.10-420(2). Within thirty (30) days of receipt of the notice of denial, the applicant*

shall inform the cabinet if a revised corrective action plan or corrective action completion report will be submitted.

SECTION 8. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) *On or before the date that an applicant submits a corrective action plan to the cabinet, the applicant shall:*
 - (a) *Notify local government units affected by the remediation of the provisions of the corrective action plan;*
 - (b) *Provide a copy of the corrective action plan to at least one (1) public library in any county affected by the remediation;*
 - (c) *Submit for publication in a newspaper of general circulation in the county or counties where the property is located, a notice requesting public comment on the corrective action plan, and submit to the cabinet a copy of the notice as published, within ten (10) days of its publication; and*
 - (d) *Post a sign on the property stating that the site is undergoing remediation and providing information on where and when the corrective action plan is available for public review and comment.*
- (2) *A comment period of at least thirty (30) days shall follow publication of the notice. During the comment period, any person may submit written comments to the cabinet concerning the corrective action plan and may request a public hearing. The cabinet may hold a public hearing if the request is made.*
- (3) *The cabinet may hold a public hearing in any geographical area affected by the remediation on the question of whether to approve or deny the corrective action plan.*
- (4) *The cabinet shall consider all written comments and public testimony prior to taking any action.*

SECTION 9. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) *Upon full performance of an approved corrective action plan, the applicant shall submit for the cabinet's review, by the deadline agreed upon by the parties, a corrective action completion report, and shall certify therein that the applicant has successfully completed remediation in compliance with the approved corrective action plan.*
- (2) *The cabinet shall review the corrective action completion report in the same manner as it reviewed the corrective action plan.*
- (3) *The cabinet may conduct its own investigation, including but not limited to its own characterization to verify that remediation has been completed in compliance with the approved corrective action plan. The reasonable actual and necessary costs of this verification shall be considered oversight costs reimbursable under Section 5(2)(c) of this Act. Any confirmatory sampling by the cabinet shall be completed within the deadline agreed to by the parties.*
- (4) *If the cabinet determines that no further remediation is required under the approved corrective action plan, and upon the applicant's payment of the cabinet's costs for review and oversight of the remediation, the cabinet shall issue the applicant a covenant not to sue.*
- (5) *With respect to the releases identified in the corrective action plan, the covenant not to sue shall preclude the cabinet's prosecution of civil or administrative enforcement action against the applicant for failure to perform remediation under KRS 224.01-400, KRS 224.01-405, any administrative regulations promulgated under these statutes, or the federal Comprehensive Environmental Response Compensation and Liability Act as amended, 42 U.S.C. sec. 9601 et seq. for injunctive relief, lien assertion, reimbursement of costs, or civil penalties imposed under KRS 224.99-010 for failure to perform remediation under KRS 224.01-400 or 224.01-405 and any administrative regulations promulgated under these statutes.*
- (6) *The covenant not to sue shall be in recordable form, and shall be recorded by the applicant, along with all deed restrictions and institutional controls approved by the cabinet, among the real estate records in the office of the county clerk where the property is located, within thirty (30) days of issuance by the cabinet. The cabinet shall have the authority and duty to enforce any restrictive covenants or institutional controls with respect to the applicant and all subsequent landowners. The covenant shall not be effective until it is recorded and a certified copy of the record instrument is delivered to the cabinet. The covenant shall not be effective with respect to any assignees, transferees, or successors until the requirements of the agreed order*

and the corrective action plan are incorporated as restrictions in the deed or other transfer instrument that is recorded and a certified copy of the record instrument is delivered to the cabinet.

(7) *The covenant not to sue shall not apply to:*

- (a) *Releases other than those expressly identified in the corrective action plan;*
- (b) *Claims based on the failure of the applicant, or the failure of any successive landowner as applicable, to comply with a requirement of Sections 1 to 12 of this Act, the agreed order, the approved corrective action plan, or the approved corrective action completion report, including any required land use restrictions and engineering or institutional controls;*
- (c) *Liability resulting from the applicant's exacerbation of the releases identified in the corrective action plan;*
- (d) *Criminal liability;*
- (e) *Petroleum storage tanks;*
- (f) *Claims or liability based on or resulting from misrepresentations or intentional omissions by the applicant;*
- (g) *Liability for any conditions at the site that were not known to the cabinet when the cabinet approved the corrective action plan or the corrective action completion report, provided those conditions prevent the remediation from being protective of human health, safety, and the environment;*
- (h) *Claims based on changes in the development of scientific knowledge, as reflected in published peer-reviewed health or environmental standards, that indicate that the remediation is no longer protective of human health, safety, and the environment;*
- (i) *An environmental emergency as defined in KRS 224.01-400;*
- (j) *Any cabinet action for damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction or loss resulting from such a release pursuant to the Federal Comprehensive Environmental Response Compensation and Liability Act as amended, 42 U.S.C. sec. 9601 et seq.; and*
- (k) *Any administrative or civil action by the cabinet not expressly identified in subsection (5) of this section.*

SECTION 10. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The following actions of the cabinet shall be considered final determinations under Sections 1 to 12 of this Act that may be appealed in accordance with KRS 224.10-420(2):

- (1) *Denial of an application to participate in the voluntary environmental remediation program;*
- (2) *Cabinet withdrawal from negotiations with an applicant for an agreed order;*
- (3) *Denial or approval of a corrective action plan; and*
- (4) *Issuance or denial of a covenant not to sue.*

SECTION 11. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) *The numerical values contained in the document titled "Region 9 Preliminary Remediation Goals," published by the United States Environmental Protection Agency's Region 9, are hereby established as screening levels and shall be used by the cabinet in conformance with the guidance set out in the Region 9 Preliminary Remediation Goals. It is not the intent of this section to establish these levels as the cleanup standards for individual contaminants that may be present at any site.*
- (2) *Within one (1) year from the effective date of this Act, the cabinet shall promulgate regulations establishing standards under KRS 224.01-400 and 224.01-405 with respect to hazardous substances, pollutants, contaminants, petroleum, or petroleum products, that are protective of human health, safety, and the environment.*

- (3) *Within one (1) year from the effective date of this Act, the cabinet shall promulgate a regulation defining tiered remediation management options that account for the following:*
- (a) *Current and proposed land use;*
 - (b) *Zoning, if applicable, of the property and surrounding properties; and*
 - (c) *The nature and extent of the contamination.*
- (4) *Nothing in this section shall affect or impair the ability of the cabinet to implement and enforce the provisions of KRS 224.01-400 and 224.01-405.*
- (5) *Nothing in this section shall be construed to limit the options available to the applicant under KRS 224.01-400(18) through 224.01-400(21).*

SECTION 12. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The cabinet shall implement Sections 1 to 12 of this Act from and after the effective date of this Act. The cabinet shall publish forms by October 31, 2001, and may promulgate necessary administrative regulations, to implement Sections 1 to 12 of this Act.

SECTION 13. A NEW SECTION OF SUBCHAPTER 26 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Costs incurred by an applicant in remediating a property in accordance with Sections 1 to 12 of this Act shall be considered eligible costs for the purposes of KRS 154.26-010 to 154.26-100.

SECTION 14. A NEW SECTION OF SUBCHAPTER 28 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Costs incurred by an applicant in remediating a property in accordance with Sections 1 to 12 of this Act shall be considered eligible costs for the purposes of KRS 154.28-010 to 154.28-100.

SECTION 15. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

Remediation of a property owned by a governmental agency in accordance with Sections 1 to 12 of this Act shall qualify as an infrastructure project for the purposes of this chapter.

SECTION 16. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) *"The Agricultural Warehousing Sites Cleanup Fund" is hereby established as a separate account in the State Treasury. This shall be a special fund administered by the Cabinet for Economic Development. Within sixty (60) days of the effective date of this Act, the Cabinet for Economic Development shall issue guidelines and application forms to administer this fund.*
- (2) *The purpose of the agricultural warehousing sites cleanup fund is to provide financial assistance to persons who did not cause or contribute to the contamination on property used for agricultural warehousing activity on or before the effective date of this Act, and who propose to undertake a voluntary cleanup of the property. The financial assistance shall be in an amount of up to seventy-five percent (75%) of the costs incurred for completing an environmental study and implementing a cleanup plan by an eligible applicant. Financial assistance may be in the form of grants as provided in this section or low-interest loans, to be lent at a rate not to exceed two percent (2%).*
- (3) *Grants may be made to political subdivisions or their instrumentalities or local economic development agencies for the purposes of this section, if the grantee owns the site on which the cleanup is being conducted and the grantee is overseeing the cleanup. The total amount of grants awarded under this section in any one (1) fiscal year shall not exceed twenty percent (20%) of the total amount of the agricultural warehousing sites cleanup fund.*
- (4) *Loans meeting the requirements of subsection (2) of this section may be made to the following categories of applicants:*
- (a) *Local economic development agencies;*
 - (b) *Political subdivisions or their instrumentalities; and*
 - (c) *Other persons determined to be eligible by the Cabinet for Economic Development.*

- (5) *The Cabinet for Economic Development shall take all of the following factors into consideration when determining which applicants shall receive financial assistance under this section:*
- (a) *The benefit of the remedy to human health, safety, and the environment;*
 - (b) *The permanence of the remedy;*
 - (c) *The cost-effectiveness of the remedy in comparison with other alternatives;*
 - (d) *The financial condition of the applicant;*
 - (e) *The financial or economic distress of the area in which the cleanup is being conducted; and*
 - (f) *The potential for economic development.*
- (6) *The Cabinet for Economic Development shall consult with the cabinet when determining priorities for funding under this section.*
- (7) *The Cabinet for Economic Development may set terms and conditions applicable to loans and grants as it deems appropriate. The Cabinet for Economic Development may consider such factors as it deems relevant, including current market interest rates and the necessity to maintain the moneys in this fund in a financially sound manner. Loans may be made based upon the ability to repay from future revenue to be derived from the cleanup, by a mortgage or other collateral, or on any other fiscal matters which the Cabinet for Economic Development deems appropriate.*
- (8) *In addition to any funds appropriated by the General Assembly, federal funds, and private contributions, moneys may be transferred from the hazardous waste management fund to the agricultural warehousing sites cleanup fund for the purpose of implementing the program established in this section. Moneys received by the Cabinet for Economic Development as repayment of outstanding loans shall be deposited in the agricultural warehousing cleanup fund. Any interest earned by moneys in this fund shall remain in this fund.*
- (9) *The Cabinet for Economic Development shall, on October 1 of each year, report to the Legislative Research Commission on the grants, loans, expenditures, and commitments made from this fund. The annual report shall include an evaluation of the effectiveness of this fund in recycling agricultural warehousing sites. The evaluation shall include any recommendations for additional changes if necessary to improve the effectiveness of this fund in recycling these sites.*

Section 17. This Act may be cited as the Voluntary Environmental Remediation Act.

Approved March 20, 2001

CHAPTER 129

(SB 134)

AN ACT relating to securities.

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

Section 1. KRS 292.480 is amended to read as follows:

- (1) Any person, who offers or sells a security in violation of this chapter or of any rules or orders promulgated hereunder or offers or sells a security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made in the light of the circumstances under which they are made not misleading (the buyer not knowing of the untruth or omission) and who does not sustain the burden of proof that he did not know and in the exercise of reasonable care could not have known of the untruth or omission is liable to the person buying the security from him, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at the legal rate from the date of payment costs and reasonable attorneys' fees, less the amount of any income received on the security, upon the tender of the security, or for damages if he no longer owns the security. Damages are the amount that would be recoverable upon a tender less:
- (a) The value of the security when the buyer is disposed of it; and

- (b) Interest at the legal rate per annum from the date of disposition.
- (2) Any person who purchases a security in violation of this chapter or of any administrative regulations or orders promulgated under this chapter or who purchases a security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made in light of the circumstances under which they are made not misleading, the seller not knowing of the untruth or omission, and who does not sustain the burden of proof that he did not know and in the exercise of reasonable care could not have known of the untruth or omission is liable to the person selling the security to him, who may sue either at law or in equity for:
 - (a) A return of the security, together with any income received by the purchaser on the security, costs, and reasonable attorney's fees, upon a tender of the full amount of the consideration received for the security; or
 - (b) If the purchaser no longer owns the security, the difference between the fair value of the security at the date of the transaction and the consideration received for the security, together with interest on the difference at the legal rate compounded annually from the date of the transaction, and costs and reasonable attorney's fees.
- (3) For purposes of paragraph (b) of subsection (2) of this section, when the purchaser no longer owns the security, if a seller seeking relief under paragraph (b) of subsection (2) of this section offers and presents admissible evidence of the highest intermediate value of the subject security as of some specific date occurring within a reasonable period of time after the date of the sale of the security but no later than the date an action under paragraph (b) of subsection (2) of this section is filed, or of the total consideration received by the purchaser in a subsequent sale of that security, it shall be presumed until rebutted by a preponderance of evidence to the contrary that the value or sale price, as applicable, is the fair value of the security at the date of the transaction as those terms are used in paragraph (b) of subsection (2) of this section to measure damages. For purposes of subsections (1) and (2) of this section and all other provisions of this chapter, statements and omissions may be either oral or written.
- (4) Every person who directly or indirectly controls a seller or purchaser liable under subsection (1) or (2) of this section, every partner, officer, or director (or person occupying a similar status or performing similar functions) or employee of a seller or purchaser who materially aids in the sale or purchase, and every broker-dealer or agent who materially aids in the sale or purchase is also liable jointly and severally with and to the same extent as the seller or purchaser, unless the nonseller or nonpurchaser who is so liable sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist. There is contribution as in cases of contract among the several persons so liable.
- (5) Any tender specified in this section may be made at any time before entry of judgment. Every cause of action under this statute survives the death of any person who might have been a plaintiff or defendant. No person may sue under this section more than three (3) years after the *date the* occurrence of the act, omission, or transaction constituting a violation of this chapter *was discovered, or in the exercise of reasonable care should have been discovered*. No person may sue under this section:
 - (a) If the buyer received a written offer, before suit and at a time when he owned the security, to refund the consideration paid together with interest at the legal rate from the date of payment, less the amount of any income received on the security, and he failed to accept the offer within thirty (30) days of its receipt;
 - (b) If the buyer received an offer before suit and at a time when he did not own the security, unless he rejected the offer in writing within thirty (30) days of its receipt; or
 - (c) If paragraph (b) of subsection (2) of this section applies, and if the seller received a written offer before suit equal to the difference between the greater of the highest intermediate value of the security or the consideration received by the purchaser upon disposal of the security and the consideration received by the seller for the security, together with interest on the difference at the legal rate from the date of the transaction; or if paragraph (a) of subsection (2) of this section applies, and if the seller received a written offer to return the security together with any income received by the purchaser on the security; and in either case he failed to accept the offer within thirty (30) days of its receipt.
- (6) No person who has made or engaged in the performance of any contract in violation of any provision of this chapter or any rule or order hereunder, or who has acquired any purported right under any contract with

knowledge of the facts by reason of which its making or performance was in violation, may base any suit on the contract. Any condition, stipulation, or provision binding any person acquiring any security to waive compliance with any provision of this chapter or any rule or order hereunder is void.

- (7) The rights and remedies provided by this section are in addition to any other rights or remedies that may exist at law or in equity.

Section 2. In the past ten years an inordinately high number of the citizens of the Commonwealth have invested the hard earned proceeds of their work in securities, individually and through employer sponsored plans, and as the number of investments in the securities market have so increased so too have the instances of fraud in that market. Even though the number of participants in the securities market has increased, a commensurate increase in the knowledge of a reasonable participant in the securities market has not closely followed. Therefore, the amendments contained in Section 1 of this Act shall be retroactively applied to any actions, other than those actions given res judicata effect by a court of competent jurisdiction, which in the exercise of reasonable care would have been discovered as having accrued in the ten (10) years immediately preceding the effective date of this Act.

Approved March 20, 2001

CHAPTER 130

(SB 164)

AN ACT relating to corporations.

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

Section 1. KRS 271B.8-050 is amended to read as follows:

- (1) The terms of the initial directors of a corporation shall expire at the first shareholders' meeting at which directors are elected.
- (2) The terms of all other directors shall expire at the next annual shareholders' meeting following their election unless their terms are staggered under KRS 271B.8-060.
- (3) A decrease in the number of directors shall not shorten an incumbent director's term.
- (4) ***For a corporation the directors of which are divided into groups under KRS 271B.8-060, any director filling a vacancy under KRS 271B.8-100 shall hold office until the next election of the group in which the director is filling the vacancy, and until his or her successor shall be elected and qualified.***~~The term of a director elected to fill a vacancy shall expire at the next shareholders' meeting at which directors are elected.~~
- (5) Despite the expiration of a director's term, he shall continue to serve until his successor is elected and qualifies or until there is a decrease in the number of directors.

Approved March 20, 2001

CHAPTER 131

(SB 20)

AN ACT relating to retirement.

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

Section 1. KRS 67A.430 is amended to read as follows:

- (1) The rate of retirement annuity shall be two and one-half percent (2.5%) of average salary, as defined in KRS 67A.360(13), for each year of total service. Fractional periods of service shall be considered in the calculation of such annuities according to the aforesaid rate. Provided, however, that no retiree, or his surviving widow, whether he retired before or after June 16, 1972, under this section shall receive a pension of less than \$100 a month and when Social Security benefits are increased the minimum shall be increased by a like amount, provided that the increase shall not exceed five percent (5%).

- (2) Any retiree or surviving spouse who as of **July 1, 2001**~~[January 1, 1996]~~, is receiving a monthly annuity of less than **one thousand dollars (\$1,000)**~~[the amount established as the poverty guideline for a single person by the United States Department of Commerce]~~ shall have the pension increased to **one thousand dollars (\$1,000)**~~[the amount established as the poverty guideline for calendar year 1996]~~, and the board may increase this annuity as provided by KRS 67A.690(1).

Section 2. KRS 67A.690 is amended to read as follows:

- (1) When a member has been retired for one (1) year or attained **forty-seven (47)**~~[fifty-one (51)]~~ years of age, whichever is later, or when he would have been retired for one (1) year or attained **forty-seven (47)**~~[fifty-one (51)]~~ years of age in the event the member is deceased, the board shall increase his retirement annuity or the annuity paid to his widow or dependent children by not less than two percent (2%) nor more than five percent (5%) per year, compounded annually; and such increase shall be determined and granted annually thereafter by the board.
- (2) (a) Notwithstanding the provisions of subsection (1), any member who retires under **a disability arising from any cause other than in the performance of duty** shall be entitled to an increase in his retirement annuity, or in the event he is deceased, in the annuity paid to his widow or dependent children by two percent (2%) per year; and such increase shall be granted annually thereafter by the board. Such increase shall be compounded until and including the date upon which the member would have been retired for one (1) year or the date upon which he has attained **forty-seven (47)**~~[fifty-one (51)]~~ years of age, whichever is later, or would have been retired for one (1) year or would have attained **forty-seven (47)**~~[fifty-one (51)]~~ years of age in the event the member is deceased. Thereafter, the annuity paid to the member or to his widow or to the guardian of his minor children shall be increased as provided in subsection (1) of this section.
- (b) ***Beginning July 1, 2001, notwithstanding any other provision to the contrary, any member, retired under occupational disability, as provided in KRS 67A.460, shall be entitled to an increase in his or her annuity, or in the event of death the annuity paid to his or her spouse or dependent, after he or she has been retired one (1) year regardless of age or date of retirement. The amount of the annual increase shall be the same as described in subsection (1) of this section, compounded annually, and the increase shall be determined and granted annually thereafter by the board. For a member retired on occupational disability for a length of time in excess of one (1) year prior to the effective date of this Act, the board shall increase the member's annuity as described in this paragraph, on July 1, 2001, and each July 1 thereafter.***
- (3) (a) A member who retired pursuant to the provisions of KRS 67A.360 to 67A.690 prior to July 15, 1980, or pursuant to KRS 67A.690(2) after July 15, 1980, or his surviving spouse or eligible surviving children, shall receive an upward adjustment in their retirement or survivor's annuity by calculation of a two percent (2%) annual increase compounded from July 1, 1974, until July 15, 1980, and annual increases compounded, from July 15, 1980, until July 15, 1990, in the same percentage amount by which the pension board increased other pensions pursuant to subsection (1) of this section for those same years. For purposes of calculation, unless the member retired under disability, the member's or survivor's first increase shall occur after the member was retired for one (1) year or attained the age of **forty-seven (47)**~~[fifty-one (51)]~~, whichever was later, or would have been retired one (1) year or reached the age of **forty-seven (47)**~~[fifty-one (51)]~~, whichever was later, in the event the member died before being retired one (1) year or reaching the age of **forty-seven (47)**~~[fifty-one (51)]~~. In the case of retirement under disability, no age or length of retirement criteria shall apply.
- (b) After calculation of the new annuity level, members of age **forty-seven (47)**~~[fifty-one (51)]~~ or more affected by this subsection, or survivors of a member who would have been **forty-seven (47)**~~[fifty-one (51)]~~ or more in the event the member is deceased, shall be granted the same annual increase granted to retirees who retired July 15, 1980, or thereafter, pursuant to subsection (1) of this section, and the annuity on which this cost-of-living increment is based shall be the annuity level reached through the addition of annual compounded increases calculated pursuant to paragraph (a) of this subsection, but not less than the annuity level in effect prior to July 15, 1990. If the member has not attained the age of **forty-seven (47)**~~[fifty-one (51)]~~ or would not have attained the age of **forty-seven (47)**~~[fifty-one (51)]~~ in the event the member is deceased, then the member or survivor shall receive increases of two percent (2%) compounded annually until the member attains or would have attained age **forty-seven (47)**~~[fifty-one (51)]~~, at which time the same annual increase granted to retirees who retired July 15, 1980, or thereafter shall apply.

- (4) The provisions of subsection (3) of this section shall not apply to any retiree or surviving spouse who receives a minimum retirement annuity, annually adjusted, pursuant to KRS 67A.430. If, in the future, any retiree or spouse annuity granted pursuant to this section falls below the adjusted minimum annuity, the affected retiree or spouse shall be granted, from that time forward, the adjusted minimum annuity calculated pursuant to KRS 67A.430.

Approved March 20, 2001

CHAPTER 132

(SB 123)

AN ACT relating to elections.

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

Section 1. KRS 117.030 is amended to read as follows:

- (1) The State Board of Elections shall publish and broadcast announcements throughout the state regarding the importance of voting in a free and conscientious manner, procedures for registering to vote and voting, general election laws, and penalties for vote buying and selling.
- (2) The State Board of Elections shall provide for the conspicuous placement of signs at all precinct polling places, which shall state that vote buying and selling are illegal and shall state the penalties for such acts.
- (3) ***The State Board of Elections shall provide for the conspicuous placement of signs at all precinct polling places, which display the telephone number and mailing address of the county board of elections, and which inform the voters of their right to report any administrative or clerical errors they witness to the county board of elections, either by phone or in writing within ten (10) days after the election.***

Approved March 20, 2001

CHAPTER 133

(SB 47)

AN ACT relating to economic development.

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

Section 1. KRS 154.20-170 is amended to read as follows:

Industrial entities, agricultural business entities, business enterprises, or private sector firms which are members of a business network within the meaning of KRS 154.01-010 in a targeted industrial sector as set forth in the state strategic plan for economic development as prescribed in KRS 154.10-120, ***and businesses that compose the secondary wood products industry as defined in KRS 154.47-005(10)***, shall be given priority consideration under state economic development loan, grant, and incentive programs administered by the Kentucky Economic Development Finance Authority.

SECTION 2. A NEW SECTION OF KRS 65.680 TO 65.699 IS CREATED TO READ AS FOLLOWS:

- (1) ***Any governing body establishing a development area may impose a job development assessment fee on each person employed in the development area whose job was newly created as a result of an economic development project begun on or after January 1, 2002, and as determined by the policies and procedures established by the governing body, subject to the conditions in subsection (6) of this section, and who is subject to the state tax imposed by KRS 141.020. A job shall not be deemed to be newly created under this section if it occurs due to the relocation of jobs from another location within the Commonwealth.***
- (2) ***The total assessment levied by all the governing bodies within the development area shall not exceed an amount equal to three percent (3%) of the gross wages of the employee.***
- (3) ***Each person so assessed shall be entitled to credits against Kentucky income tax equal to the assessment fee withheld from wages during the year as provided by KRS 141.310 and 141.350 so long as the amount does***

not exceed the amount of the assessment itself. The approved company shall determine the applicable tax credit for each of its employees using the methods set forth in KRS 141.347.

- (4) *Subsequent to the establishment of a development area by one (1) governing body, no other governing body may levy an assessment in any portion of the development area that would cause the total assessment in any portion of the development area to exceed three percent (3%) of the gross wages of the employee. If more than one (1) governing body jointly establishes a development area, the governing bodies that establish the development area shall agree upon the amount of the assessment and the manner by which the assessment is to be prorated among the governing bodies establishing the development area.*
- (5) *Any assessment of employees in connection with their employment at an economic development project levied under this section shall permanently lapse on the date:*
 - (a) *Any bonds issued in connection with acquiring or developing the infrastructure of a development area or a qualified development area, in accordance with KRS 65.680 to 65.699, are retired; or*
 - (b) *Any loans or other financing incurred in connection with the establishment of a development area or a qualified development area mature or are prepaid in full.*
- (6) *For the purposes of this section:*
 - (a) *The development area shall be a previously undeveloped tract of land;*
 - (b) *No more than five hundred (500) acres may be approved in any twelve (12) month period in any county;*
 - (c) *Acceptable developments shall be limited to manufacturing, and technical developments as approved by the Commissioner of the New Economy;*
 - (d) *Each proposed development shall be evaluated by the Kentucky Economic Development Finance Authority in consultation with the Governor's Office of Economic Analysis for fiscal viability; and*
 - (e) *The amount of the total assessment for each company locating within the development area shall be subject to approval by the Office of the State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet. Approval shall not be granted if it is determined that there is no net positive economic impact to the Commonwealth.*

SECTION 3. A NEW SECTION OF KRS 65.680 TO 65.699 IS CREATED TO READ AS FOLLOWS:

- (1) *If a company, against whose employees an assessment is levied under Section 2 of this Act, enters into an agreement with the Kentucky Economic Development Finance Authority under KRS 154.22-010 to 154.22-080, KRS 154.23-005 to 154.23-079, KRS 154.24-010 to 154.24-150, KRS 154.26-010 to 154.26-100, and KRS 154.28-010 to 154.28-100 allowing the company to assess a job development assessment fee as part of that agreement, the total assessment levied against the employee shall not exceed the maximum assessment allowed under KRS 154.22-010 to 154.22-080, KRS 154.23-005 to 154.23-079, KRS 154.24-010 to 154.24-150, KRS 154.26-010 to 154.26-100, and KRS 154.28-010 to 154.28-100.*
- (2) *When added with the job development assessment fees under Section 2 of this Act, the total credits that an employee may claim against his or her Kentucky income tax imposed under KRS 141.240 shall not exceed the maximum total job development assessment fees under KRS 154.22-010 to 154.22-080, KRS 154.23-005 to 154.23-079, KRS 154.24-010 to 154.24-150, KRS 154.26-010 to 154.26-100, and KRS 154.28-010 to 154.28-100.*

SECTION 4. A NEW SECTION OF KRS 65.680 TO 65.699 IS CREATED TO READ AS FOLLOWS:

- (1) *The employees of any approved company choosing to locate in a development area shall be subject to any assessments levied against them, and the approved company shall not have the authority to reject an assessment.*
- (2) *Each employer in the development area shall:*
 - (a) *Collect the assessment from its employees by deducting the assessment from each paycheck of its employees;*
 - (b) *Promptly remit the assessment to the revenue collector;*
 - (c) *Make its payroll books and records available to the revenue collector at a reasonable time as specified by the governing body; and*

- (d) ***File with the revenue collector any documentation with regard to the assessment as required by the governing body.***

Section 5. KRS 65.680 is amended to read as follows:

As used in KRS 65.680 to 65.699:

- (1) ***"Assessment" means the job development assessment fee authorized by Section 2 of this Act, which the governing body may elect to impose throughout the development area;***
- (2) "City" means any city or urban-county;
- (3)~~(2)~~ "Commencement date" means the date a development area is established, as provided in the ordinance creating the development area;
- (4)~~(3)~~ "County" means any county or charter county;
- (5)~~(4)~~ "Debt charges" means the principal, including any mandatory sinking fund deposits, interest, and any redemption premium, payable on increment bonds as the payments come due and are payable and any charges related to the payment of the foregoing;
- (6)~~(5)~~ "Development area" means a contiguous geographic area, which may be within one (1) or more cities or counties, defined and created for economic development purposes by an ordinance of a city or county in which one (1) or more economic development projects are proposed to be located;
- (7)~~(6)~~ "Economic development project" means any property, asset, or improvement certified by the governing body, which certification is conclusive as:
 - (a) Being for a public purpose;
 - (b) Being for economic development purposes;
 - (c) Being in or related to a development area; and
 - (d) Having an estimated life or period of usefulness of one (1) year or more, including, but not limited to, real estate, buildings, personal property, equipment, furnishings, and site improvements and reconstruction, rehabilitation, renovation, installation, improvement, enlargement, and extension of property, assets, or improvements so certified as having an estimated life or period of usefulness of one (1) year or more;
- (8)~~(7)~~ "Economic development purposes" means the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, or any combination thereof, which is determined by the governing body establishing the development area as contributing to economic development;
- (9)~~(8)~~ "Financing agreement" means an agreement made between cities, counties, or a combination thereof providing for the release of increments under the authority of KRS 65.680 to 65.699;
- (10)~~(9)~~ "Governing body" means the body possessing legislative authority in a city or county;
- (11)~~(10)~~ "Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more economic development projects in a development area, the payment of which is secured solely by a pledge of increments or by a pledge of increments and other sources of payment that are otherwise permitted by law to be pledged or used as a source of payment of the bonds or notes;
- (12)~~(11)~~ "Increments" means that amount of revenue due to be received by a city or county, determined by subtracting the amount of old revenues from the amount of new revenues, ***including assessments, if any***, with respect to a development area;
- (13)~~(12)~~ "Issuer" means a city or county issuing increment bonds;
- (14)~~(13)~~ "New revenues" means the revenues received with respect to a development area in any year after the commencement date for the development area ***and may include all or a portion of the assessments as determined by the governing body;***
- (15)~~(14)~~ "Old revenues" means the amount of revenues received with respect to a development area in the last year prior to the commencement date for the development area;

~~(16)~~~~(15)~~ "Outstanding" means increment bonds that have been issued, delivered, and paid for, except any of the following:

- (a) Increment bonds canceled upon surrender, exchange, or transfer, or upon payment or redemption;
- (b) Increment bonds in replacement of which or in exchange for which other bonds have been issued; or
- (c) Increment bonds for the payment, or redemption or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the ordinance or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, or otherwise, have been deposited, and credited in a sinking fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of increment bonds to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected bond holders has been filed with the issuer or its agent;

~~(17)~~~~(16)~~ "Revenue collector" means any official charged with collecting revenues in a development area;

~~(18)~~~~(17)~~ "Revenues" means ad valorem revenues, ~~and~~ occupational license fees, **and assessments** received by the city or county creating a development area and by each city and county that is a party to a financing agreement related to that development area;

~~(19)~~~~(18)~~ "Special fund" means a special fund created in accordance with KRS 65.688 into which increments are to be deposited;

~~(20)~~~~(19)~~ "Termination date" means the date on which the development area shall cease to exist, which date shall be no earlier than the date any increment bonds secured by increments from a development area are no longer outstanding, ~~and which shall be no later than the first December 31 that is at least thirty (30) years from the commencement date~~; and

~~(21)~~~~(20)~~ "Year" means January 1 to December 31 of the same calendar year.

Section 6. KRS 65.684 is amended to read as follows:

In addition to any other powers conferred by law, any city or county may exercise any powers necessary or convenient to carry out the purposes of KRS 65.680 to 65.699, including the power to:

- (1) Create development areas and to define their boundaries;
- (2) Undertake economic development projects;
- (3) Issue increment bonds and pledge increments to the payment of debt charges on those increment bonds;
- (4) Create a special fund established for the deposit of increments and other funds that may be used or pledged for the payment of increment bonds and to pay the costs of economic development projects; and
- (5) Utilize increments to pay the costs of economic development projects and for the payment of amounts due on increment bonds; **and**
- (6) ***Impose job development assessment fees.***

Section 7. KRS 65.686 is amended to read as follows:

- (1) Any city or county may establish or modify a development area by:
 - (a) Holding a public hearing by its governing body or its designee at which interested parties are afforded a reasonable opportunity to express their views on the proposed creation or modification of a development area and its boundaries. Notice of the hearing shall:
 - 1. Include a declaration that the purpose of the hearing is to afford interested parties an opportunity to express their views regarding the development area;
 - 2. Include a general description of the boundaries of the proposed development area;
 - 3. State the time and place of the hearing; and
 - 4. Be published in a local newspaper of general circulation at least seven (7) days but no more than twenty-one (21) days prior to the scheduled hearing date; and
 - (b) Adopting an ordinance which shall:

1. Describe the boundaries of the development area with sufficiency to allow ordinary and reasonable certainty of the territory included. However, no development area shall include property located in any other development area;
 2. Create the development area on a date certain, which shall be referred to as the commencement date, and, if deemed appropriate by the governing body, establish a termination date;
 3. Assign a name to the development area for identification purposes;
 4. Contain findings that the designation of the proposed development area will result in the increase in the value of property located in the development area or result in increased employment within or around the development area, or both;
 5. Approve the financing agreement, if any, relating to the economic development project;
 6. Establish a special fund for that development area;~~and~~
 7. Contain any other findings, limitations, rules, or procedures regarding the development area and its establishment or maintenance as deemed necessary by the governing body; and
 8. ***Levy the job development assessment fee, if any; and***
- (c) Providing the revenue collector, if the collector is not an employee of the city or county designating the development area, with a description of the development area and any other information available which is needed to determine increments or new revenues.
- (2) Increments generated in a development area shall be submitted by the revenue collector to the city or county establishing the special fund for that development area, deposited to that special fund and used to pay the costs of economic development projects or to pay debt charges on increment bonds, except that increments payable to any city or county other than the city or county establishing the economic development area shall be submitted to that city or county as if no development area existed unless that city or county is a party to a financing agreement that provides that some or all of the increments are to be submitted to a special fund.
- (3) The existence of a development area shall terminate on the termination date and if no termination date is established by the ordinance creating the development area, on the earlier of the termination date subsequently established by ordinance or the first December 31 that is at least thirty (30) years from the commencement date; ***however, any development area shall not be terminated as long as there are any increment bonds outstanding for which the revenues of the development area are pledged to the repayment thereof.***

Section 8. KRS 141.310 is amended to read as follows:

- (1) Every employer making payment of wages on or after January 1, 1971, shall deduct and withhold upon the wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.
- (2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which the wages are paid.
- (3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of wages by the employer during the calendar year, or the date of commencement of employment with the employer during the year, or January 1 of the year, whichever is the later.
- (4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.
- (5) The tables mentioned in subsection (1) of this section take into consideration the deductible federal income tax. If Congress changes substantially the federal income tax, the cabinet shall make the change in these tables necessary to compensate for any increase or decrease in the deductible federal income tax.
- (6) The cabinet may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation so permitted produces substantially the same result set forth in the tables

authorized by KRS 141.370. Prior approval of the calculation shall be secured from the cabinet at least thirty (30) days before the first payroll period for which it is to be used.

- (7) The cabinet may, by regulations, authorize employers:
 - (a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;
 - (b) To determine the amount to be deducted and withheld upon each payment of wages to the employee during the quarter as if the appropriate average of the wages estimated constituted the actual wages paid; and
 - (c) To deduct and withhold upon any payment of wages to the employee during the quarter the amount necessary to adjust the amount actually deducted and withheld upon the wages of the employee during the quarter to the amount that would be required to be deducted and withheld during the quarter if the payroll period of the employee was quarterly.
- (8) The cabinet may provide by regulation, under the conditions and to the extent it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employee agree to the additional withholding. The additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.
- (9) Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.24-110 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee or the Commonwealth's contribution of KRS 154.24-110(3) applies. If the provisions in KRS 154.24-150(3) or (4) apply, the offset, the offset shall be one hundred percent (100%) of the assessment.
- (10) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job development assessment fee provided in KRS 154.22-070, ~~or~~ KRS 154.28-110, **or Section 2 of this Act** may offset the fee against the Kentucky income tax required to be withheld from the employee under this section.
- (11) Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.26-100 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be two-thirds (2/3) of the amount of the assessment fee withheld from the employee, or if the agreement under KRS 154.26-090(1)(d)2.b. is consummated, the offset shall be four-fifths (4/5) of the assessment fee.
- (12) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job development assessment fee provided in KRS 154.23-055 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be equal to the Commonwealth's contribution as determined by KRS 154.23-055(1) to (3).
- (13) Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the cabinet. The bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the cabinet, but shall not exceed fifty thousand dollars (\$50,000).
- (14) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of an employer's business until the bond is posted or the tax required to be withheld is paid or both. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the defendant.

Approved March 20, 2001

CHAPTER 134

(SB 108)

AN ACT relating to the school term.

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

Section 1. KRS 158.070 is amended to read as follows:

- (1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour instructional days. A board of education may extend its term beyond the minimum term.
- (2) ***The local board of education, upon recommendation of the local school district superintendent, shall adopt a school calendar for the upcoming school year that establishes the opening and closing dates of the school term, beginning and ending dates of each school month, instructional days, and days on which schools shall be dismissed. The local board may schedule days for breaks in the school calendar that shall not be counted as a part of the minimum school term.***
- (3) Any local board of education operating its schools on a year-round school program basis shall conform with administrative regulations promulgated and adopted by the Kentucky Board of Education upon the recommendation of the commissioner of education, which regulations must be in conformity with the following criteria:
 - (a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;
 - (b) A pupil's required attendance in school shall be for at least the minimum instructional term; and
 - (c) No teacher shall be required to teach more than the minimum term during the school year.
- ~~(4)~~~~(3)~~ (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of pupils pursuant to the requirements of KRS 156.095. At the discretion of the superintendent, one (1) day of professional development may be used for district-wide activities and for training that is mandated by federal or state law. The use of three (3) days shall be planned by each school council, except that the district is encouraged to provide technical assistance and leadership to school councils to maximize existing resources and to encourage shared planning.
- (b) A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred eighty-five (185) days that a teacher shall be employed.
 1. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.
 2. No teacher or administrator shall be permitted to count participation in a professional development activity under the flexible schedule option unless the activity is related to the teacher's classroom assignment and content area, or the administrator's job requirements, or is required by the school improvement or consolidated plan, or is tied to the teacher's or the administrator's individual growth plan. The supervisor shall give prior approval and shall monitor compliance with the requirements of this paragraph. In the case of teachers, a professional development committee or the school council by council policy may be responsible for reviewing requests for approval.
- (c) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.
- (d) Each local board may use two (2) days for planning activities without the presence of pupils.
- (e) Each local board may use the number of days deemed necessary for:
 1. National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;
 2. Local disaster which would endanger the health or safety of children; and
 3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the commissioner of education.

- ~~(5)(4)~~ The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt administrative regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (3)(e)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.
- ~~(6)(5)~~ (a) In setting the school calendar, school ~~may~~~~shall~~ be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings ~~may~~~~shall~~ be scheduled to begin with the first Thursday after Easter, or largest paid membership, the commissioner of education may designate alternate dates. ***If schools are scheduled to operate during days designated for the statewide professional meeting, the school district shall permit teachers who are delegates to attend as compensated professional leave time and shall employ substitute teachers in their absence.*** The commissioner of education shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. School shall be closed on the day of a regular election, and that day may be used for professional development activities, professional meetings, or parent-teacher conferences.
- (b) All schools shall be closed on the third Monday of January in observance of the birthday of Martin Luther King, Jr. Districts may:
1. Designate the day as one (1) of the four (4) holidays permitted under subsection (3)(c) of this section; or
 2. Not include the day in the minimum school term specified in subsection (1) of this section.
- ~~(7)(6)~~ Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.
- ~~(8)(7)~~ Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the school day.
- ~~(9)(8)~~ Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section.
- (10) ***Notwithstanding the provisions of KRS 158.060(3) and the provisions of subsection (1) of this section, a school district shall arrange bus schedules so that all buses arrive in sufficient time to provide breakfast prior to the instructional day. In the event of an unforeseen bus delay, the administrator of a school that participates in the Federal School Breakfast Program may authorize up to fifteen (15) minutes of the six (6) hour instructional day if necessary to provide the opportunity for children to eat breakfast not to exceed eight (8) times during the school year within a school building.***

Approved March 20, 2001

CHAPTER 135

(HB 66)

AN ACT relating to the Teachers' Professional Growth Fund.

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

Section 1. KRS 156.553 is amended to read as follows:

- (1) The Teachers' Professional Growth Fund is hereby created to provide teachers with high quality professional development in content knowledge in the core disciplines of mathematics, science, language arts, and social studies as well as teaching methodologies to impart the content to students. During the years 2000 to 2004, priority for funding shall be given to middle school teachers, and, based upon available funds, and in subsequent years, funding shall be made available to teachers in all grade levels in the subject areas listed in this subsection. During the years 2000 to 2002, ~~funds shall be directed to~~ improving the content knowledge of mathematics by middle school teachers ***shall be given priority in the use of funds, except that the Department of Education may approve funding for improving teachers' knowledge and skills in other content areas if all funds are not needed for middle school mathematics teachers.*** ~~and~~ In subsequent years, the Department of Education, under provisions of this section, shall determine the priority for content emphasis.
- (2) The fund may provide moneys to teachers for:
 - (a) Tuition reimbursement for successful completion of college or university level courses approved for this purpose by the Education Professional Standards Board;
 - (b) Stipends for participation in and successful completion of:
 1. College or university courses approved for this purpose by the Education Professional Standards Board;
 2. Teacher institutes developed for core content instructors by the Department of Education in compliance with KRS 156.095; and
 3. Other professional development programs approved by the Kentucky Department of Education; and
 - (c) Reimbursement for other approved professional development activities throughout the school year, including reimbursement for:
 1. Travel to and from professional development workshops; and
 2. Travel to and from other schools for the observation of, and consultation with, peer mentors.
- (3) The Education Professional Standards Board shall determine the college and university courses for which teachers may receive reimbursement from the fund.
- (4) The Department of Education shall:
 - (a) Administer the fund. ***In order to process reimbursements to teachers promptly, the reimbursements shall not be subject to KRS 45A.690 to KRS 45A.725;***
 - (b) Determine the professional development programs for which teachers may receive reimbursement from the fund;
 - (c) Determine the level of stipend or reimbursement, subject to the availability of appropriated funds, for particular courses and programs, under subsection (2) of this section; and
 - (d) Provide an accounting of fund expenditures to the Center for Middle School Academic Achievement, upon request of the center, for use in preparing the center's annual report.
- (5) The professional development programs approved by the Department of Education for which teachers may receive support from the fund shall:
 - (a) Focus on improving the content knowledge of core discipline teachers;
 - (b) Provide instruction on teaching methods to effectively impart core discipline content knowledge to all students;
 - (c) Include intensive training institutes and workshops during the summer;
 - (d) Provide programs for the ongoing support of teacher participants throughout the year, which may include:

1. A peer coaching or mentoring, and assessment program; and
2. Planned activities, including:
 - a. Follow-up workshops; and
 - b. Support networks of teachers of the core disciplines using technologies including, but not limited to, telephone, video, and on-line computer networks; and
- (e) Provide teacher participants with professional development credit toward renewal of certification under the provisions of KRS 161.095, relating to continuing education for teachers.
- (6) The Kentucky Board of Education shall specify through promulgation of administrative regulations:
 - (a) The application and approval process for receipt of funds;
 - (b) The requirements and process for the disbursal of funds; and
 - (c) The number of each kind of approved course for which applicants may receive funds.
- (7) ***Notwithstanding the provisions of KRS 45.229, unexpended funds in the Teachers' Professional Growth Fund in the 2000-2001 fiscal year or in any subsequent fiscal year shall not lapse but shall carry forward to the next fiscal year and shall be used for the purposes established in subsections (1) and (2) of this section.***

Approved March 20, 2001

CHAPTER 136

(HB 51)

AN ACT relating to the Legislature.

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

Section 1. KRS 6A.110 is repealed, reenacted as a new section of KRS Chapter 6, and amended to read as follows:

The Legislative Research Commission shall maintain separate bill request files as follows:

- (1) A regular session bill request file in which all requests for legislation to be enacted at a regular session are filed in serial order;
- (2) A special session bill request file which shall be maintained from the time the Governor issues an executive order calling a special session of the General Assembly until the end of the special session in which all requests for legislation to be enacted at a special session are filed in serial order;
- ~~(3) An organizational session bill request file in which all requests for resolutions to be enacted at an organizational session are filed in serial order;~~
- ~~(4)~~ Bill requests filed for a particular type of session of the General Assembly shall not be introduced in a session of a type other than that for which they are filed. This section shall not be construed as prohibiting the filing of multiple requests by the same or other sponsors for one (1) or more types of sessions of the General Assembly.
- ~~(4)~~~~(5)~~ Each bill request shall indicate on its face the type of session and the year of session of the General Assembly for which it is being filed.

Section 2. KRS 7B.060 is amended to read as follows:

- (1) The purpose of the Kentucky Long-Term Policy Research Center is to serve as a catalyst to change the way decisions are made in government by providing decision-makers a broader context in which to make decisions, taking into consideration the long-term implications of policy, critical trends, and emerging issues which may have a significant impact on the state.
- (2) At the direction of the board, the center shall:
 - (a) Establish a statewide scanning program to review information sources and identify emerging issues for the Commonwealth, and regularly provide the program's findings to the legislative and executive branches;

- (b) 1. Prepare biennially a report on trends in the Commonwealth and the long-term implications of those trends;
- 2. As part of the report, sponsor a public forum to review the findings of the trends report and obtain reactions from executive branch agencies, legislative committees, private sector representatives, and the public;
- 3. Include in the report a record of the trends, long-term implications, and reactions, to be completed by December 31 of even-numbered years and presented to the ~~organizational session of the~~ General Assembly, to the Governor, and to the public; and
- 4. The biennial trends report shall be given affirmative consideration by the agencies and branches of state government when those agencies and branches are determining budget priorities;
- (c) Identify long-term issues significant to the Commonwealth by using a methodology involving a broad spectrum of citizens and establish annual work plans focusing on the priority issues approved by the board. Studies shall include the potential long-term effects of current trends and policies and shall identify future policy options;
- (d) Periodically prepare a report on alternative futures facing the Commonwealth for a five (5) or ten (10) year period, or for a period deemed appropriate by the board;
- (e) Advise the General Assembly and the Governor of potential long-term effects of government policies;
- (f) Develop an information process to inform the public continually on long-term issues, critical trends, and alternative futures;
- (g) Develop a database for trend identification.

Section 3. KRS 161.740 is amended to read as follows:

- (1) Teachers eligible for continuing service status in any school district shall be those teachers who meet qualifications listed in this section:
 - (a) Hold a standard or college certificate as defined in KRS 161.720 or meet the certification standards for vocational education teachers established by the Education Professional Standards Board.
 - (b) When a currently employed teacher is reemployed by the superintendent after teaching four (4) consecutive years in the same district, or after teaching four (4) years which shall fall within a period not to exceed six (6) years in the same district, the year of present employment included, the superintendent shall issue a written continuing contract if the teacher assumes his duties, and the superintendent shall notify the board of the action taken. Each day served in the General Assembly by a board of education employee during a regular ~~or~~ extraordinary ~~or organizational~~ session shall be included in the computation of a year as defined in KRS 161.720(2).
 - (c) When a teacher has attained continuing contract status in one district and becomes employed in another district, the teacher shall retain that status. However, a district may require a one (1) year probationary period of service in that district before granting that status. For purposes of this subsection, the continuing contract of a teacher shall not be terminated when the teacher leaves employment, all provisions of KRS 161.720 to 161.810 to the contrary notwithstanding, and the continuing service contract shall be transferred to the next school district, under conditions set forth in this section, for a period of up to seven (7) months from the time employment in the first school district has terminated. Nothing contained herein shall be construed to give a teacher a right to reemployment in the first school district during the seven (7) month period following termination.
 - (d) Service credit toward a continuing contract shall begin only when a teacher is properly certified as defined in KRS 161.720(6) or, in the case of a vocational education teacher, when the required certification standards established by the Education Professional Standards Board have been met.
- (2) Vocational education teachers fulfilling the requirements in subsection (1) of this section as of July 15, 1982, shall be eligible for continuing service status.
- (3) Any teacher or superintendent who has been or may be hereafter inducted into the Armed Forces of this country, shall at the expiration of service be reemployed or reinstated in a comparable position as of the beginning of the next school year, provided application is made at least thirty (30) days before the opening of

school, unless physically or mentally incapacitated according to medical notations on official discharge papers. Vacancies created by military leaves shall be filled by teachers or superintendents employed by the board of education under a limited contract of one (1) year or less.

Section 4. KRS 7.140 is amended to read as follows:

- (1) The execution of the functions provided for in KRS 7.120, 7.131, 7.132, 7.134, 7.136, 7.138, and this section shall be carried out by a reviser of statutes, who shall be appointed by the Commission upon recommendation of the director. The reviser may be removed only upon the approval of the Legislative Research Commission. The reviser shall be learned in the law and shall be either a member of the bar of Kentucky or a person who has had at least two (2) years of responsible experience in statute revision work ~~[in some other state]~~.
- (2) The reviser of statutes shall perform any additional duties required by the Commission. He shall cooperate with and assist the director of the Legislative Research Commission to the fullest extent practicable in the performance of his duties and on request of the director shall draft bills, provide legal research and other assistance, and perform such other duties as do not substantially interfere with the performance of his duties under KRS 7.120, 7.131, 7.132, 7.134, 7.136, 7.138, and this section.

Section 5. The following KRS sections are repealed:

- 6A.010 Employees.
- 6A.020 Compensation.
- 6A.030 Expense allowance.
- 6A.040 Prorating of allowance authorized by KRS 6.213.
- 6A.050 Allowance in lieu of stationery.
- 6A.060 Lobbyists.
- 6A.070 Daily index and digest.
- 6A.080 Orientation conference.
- 6A.090 Prefiling of bill or resolution.
- 6A.100 Application of KRS Chapter 6.
- 6A.120 Action of Program Review and Investigation Committee.
- 6A.130 Action of Administrative Regulation Committee.
- 6A.140 Assignment of bills to committees.
- 6A.150 Rulemaking powers.

Approved March 20, 2001

CHAPTER 137

(HB 78)

AN ACT relating to reorganization.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

- (1) *The Education Professional Standards Board, established in Section 7 of this Act, shall be headed by an executive director who shall be responsible for the day to day operations of the board including the following:*
 - (a) *Setting up appropriate organizational structures and personnel policies for approval by the board;*
 - (b) *Appointing all staff, including the deputy executive director;*
 - (c) *Preparing annual reports on the board's program of work;*
 - (d) *Carrying out policy and program directives of the board;*

- (e) *Preparing and submitting to the board for its approval a proposed biennial budget; and*
- (f) *Performing all other duties and responsibilities assigned by state law.*
- (2) *When it is necessary to fill the position of executive director, the board shall conduct a comprehensive search for candidates and may employ a search firm if the board deems it necessary. The executive director shall possess broad-based experience in education and teacher development, and have demonstrated leadership skills in addition to other qualifications to be established by the board as authorized in Section 7 of this Act.*
- (3) *With approval of the board, the executive director may enter into agreements with any state agency or political subdivision of the state, any postsecondary education institution, or any other person or entity to enlist assistance to implement the duties and responsibilities of the board.*

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

- 1. The Governor.
- 2. Lieutenant Governor.
- 3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
- 4. Department of Law.
 - (a) Attorney General.
- 5. Department of the Treasury.
 - (a) Treasurer.
- 6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
- ~~7. Superintendent of Public Instruction.~~
- ~~8. Auditor of Public Accounts.~~

II. Program cabinets headed by appointed officers:

- 1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.

- (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
- (a) Department of Education.
 - (1) Kentucky Board of Education.
 - ~~{(2) — Education Professional Standards Board.}~~
 - (b) Department for Libraries and Archives.
 - (c) Kentucky Arts Council.
 - (d) Kentucky Educational Television.
 - (e) Kentucky Historical Society.
 - (f) Kentucky Teachers' Retirement System Board of Trustees.
 - (g) Kentucky Center for the Arts.
 - (h) Kentucky Craft Marketing Program.
 - (i) Kentucky Commission on the Deaf and Hard of Hearing.
 - (j) Governor's Scholars Program.
 - (k) Governor's School for the Arts.
 - (l) Operations and Development Office.
 - (m) Kentucky Heritage Council.
 - (n) Kentucky African-American Heritage Commission.
 - (o) Board of Directors for the Center for School Safety.
3. Natural Resources and Environmental Protection Cabinet:
- (a) Environmental Quality Commission.
 - (b) Kentucky Nature Preserves Commission.
 - (c) Department for Environmental Protection.
 - (d) Department for Natural Resources.
 - (e) Department for Surface Mining Reclamation and Enforcement.
 - (f) Office of Legal Services.
 - (g) Office of Information Services.
 - (h) Office of Inspector General.
4. Transportation Cabinet:
- (a) Department of Highways.
 - 1. Office of Program Planning and Management.
 - 2. Office of Project Development.
 - 3. Office of Construction and Operations.

4. Office of Intermodal Programs.
5. Highway District Offices One through Twelve.
- (b) Department of Vehicle Regulation.
- (c) Department of Administrative Services.
- (d) Department of Fiscal Management.
- (e) Department of Rural and Municipal Aid.
- (f) Department of Human Resources Management.
- (g) Office of the Secretary.
- (h) Office of General Counsel and Legislative Affairs.
- (i) Office of Public Affairs.
- (j) Office of Transportation Delivery.
- (k) Office of Minority Affairs.
- (l) Office of Policy and Budget.
5. Cabinet for Economic Development:
 - (a) Department of Administration and Support.
 - (b) Department for Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department of Community Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
 - (a) Public Service Commission.
 - (b) Department of Insurance.
 - (c) Department of Housing, Buildings and Construction.
 - (d) Department of Financial Institutions.
 - (e) Department of Mines and Minerals.
 - (f) Department of Public Advocacy.
 - (g) Department of Alcoholic Beverage Control.
 - (h) Kentucky Racing Commission.
 - (i) Board of Claims.
 - (j) Crime Victims Compensation Board.
 - (k) Kentucky Board of Tax Appeals.
 - (l) Backside Improvement Commission.
 - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
 - (n) Department of Charitable Gaming.
7. Cabinet for Families and Children:
 - (a) Department for Community Based Services.
 - (b) Department for Disability Determination Services.

- (c) Public Assistance Appeals Board.
 - (d) Office of the Secretary.
 - (1) Kentucky Commission on Community Volunteerism and Service.
 - (e) Office of the General Counsel.
 - (f) Office of Program Support.
 - (g) Office of Family Resource and Youth Services Centers.
 - (h) Office of Technology Services.
 - (i) Office of the Ombudsman.
 - (j) Office of Performance Enhancement.
8. Cabinet for Health Services.
- (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission on Children with Special Health Care Needs.
 - (e) Office of Certificate of Need.
 - (f) Office of the Secretary.
 - (g) Office of the General Counsel.
 - (h) Office of Program Support.
 - (i) Office of the Inspector General.
 - (j) Office of Aging Services.
9. Finance and Administration Cabinet:
- (a) Office of Legal and Legislative Services.
 - (b) Office of Management and Budget.
 - (c) Office of Financial Management.
 - (d) Office of the Controller.
 - (e) Department for Administration.
 - (f) Department of Facilities Management.
 - (g) State Property and Buildings Commission.
 - (h) Kentucky Pollution Abatement Authority.
 - (i) Kentucky Savings Bond Authority.
 - (j) Deferred Compensation Systems.
 - (k) Office of Equal Employment Opportunity Contract Compliance.
 - (l) Office of Capital Plaza Operations.
 - (m) County Officials Compensation Board.
 - (n) Kentucky Employees Retirement Systems.
 - (o) Commonwealth Credit Union.
 - (p) State Investment Commission.
 - (q) Kentucky Housing Corporation.

- (r) Governmental Services Center.
 - (s) Kentucky Local Correctional Facilities Construction Authority.
 - (t) Kentucky Turnpike Authority.
 - (u) Historic Properties Advisory Commission.
 - (v) Kentucky Kare Health Insurance Authority.
 - (w) Kentucky Tobacco Settlement Trust Corporation.
10. Labor Cabinet:
- (a) Department of Workplace Standards.
 - (b) Department of Workers' Claims.
 - (c) Kentucky Labor-Management Advisory Council.
 - (d) Occupational Safety and Health Standards Board.
 - (e) Prevailing Wage Review Board.
 - (f) Workers' Compensation Board.
 - (g) Kentucky Employees Insurance Association.
 - (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.
 - (j) Kentucky Occupational Safety and Health Review Commission.
 - (k) Office of Administrative Services.
 - (l) Office of Labor-Management Relations and Mediation.
 - (m) Office of General Counsel.
 - (n) Workers' Compensation Funding Commission.
 - (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
 - (b) Department of Tax Administration.
 - (c) Office of Financial and Administrative Services.
 - (d) Department of Law.
 - (e) Department of Information Technology.
 - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
- (a) Department of Travel.
 - (b) Department of Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (d) Kentucky Horse Park Commission.
 - (e) State Fair Board.
 - (f) Office of Administrative Services.
 - (g) Office of General Counsel.
13. Cabinet for Workforce Development:

- (a) Department for Adult Education and Literacy.
- (b) Department for Technical Education.
- (c) Department of Vocational Rehabilitation.
- (d) Department for the Blind.
- (e) Department for Employment Services.
- (f) State Board for Adult and Technical Education.
- (g) The State Board for Proprietary Education.
- (h) The Foundation for Adult Education.
- (i) Office of Training and Reemployment.
- (j) Office of General Counsel.
- (k) Office of Communication Services.
- (l) Office of Development and Industry Relations.
- (m) Office of Workforce Analysis and Research.
- (n) Office for Administrative Services.
- (o) Office for Policy and Budget.
- (p) Office of Personnel Services.
- (q) Unemployment Insurance Commission.

14. Personnel Cabinet:

- (a) Office of Administrative and Legal Services.
- (b) Department for Personnel Administration.
- (c) Department for Employee Relations.
- (d) Kentucky Public Employees Deferred Compensation Authority.
- (e) Kentucky Kare.
- (f) Division of Performance Management.
- (g) Division of Employee Records.
- (h) Division of Staffing Services.
- (i) Division of Classification and Compensation.
- (j) Division of Employee Benefits.
- (k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Council on Postsecondary Education.
- 3. Department for Local Government.
- 4. Kentucky Commission on Human Rights.
- 5. Kentucky Commission on Women.
- 6. Department of Veterans' Affairs.
- 7. Kentucky Commission on Military Affairs.
- 8. The Governor's Office for Technology.

9. Commission on Small Business Advocacy.

10. Education Professional Standards Board.

Section 3. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

- (1) Council on Postsecondary Education;
- (2) Department of Military Affairs;
- (3) Department for Local Government;
- (4) Kentucky Commission on Human Rights;
- (5) Kentucky Commission on Women;
- (6) Kentucky Commission on Military Affairs;
- (7) Kentucky Coal Council;
- (8) Governor's Office of Child Abuse and Domestic Violence Services;
- (9) Governor's Office for Technology;
- (10) Office of Coal Marketing and Export;
- (11) Agricultural Development Board;
- (12) Commission on Small Business Advocacy;
- (13) Office of Early Childhood Development;~~and~~
- (14) Kentucky Agency for Substance Abuse Policy; **and**
- (15) Education Professional Standards Board.**

Section 4. 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 **and the executive director and deputy executive director of the Education Professional Standards Board;**
 - (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;
 - (aa) Chief information officer of the Commonwealth; and
 - (ab) Employees of the Kentucky Commission on Community Volunteerism and Service.
- (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 5. KRS 161.010 is amended to read as follows:

As used in KRS 161.020 to 161.120:

- (1) "Continuing education" means study or other activities to provide professional improvement and personal growth for certified teachers throughout their career. It may include, but shall not be limited to, university courses, an advanced degree, or a combination of university courses, field-based experience, individual research, and approved professional development activities, pursuant to KRS ~~156.095~~~~[161.095]~~.
- (2) "Standard college or university" means an institution accredited by the Southern Association of Colleges and Schools or by one of the other recognized regional accrediting agencies or by the **Education Professional Standards Board**~~[Kentucky Department of Education]~~.
- (3) ~~["Standard"]~~College or university work of graduate grade" means academic preparation which extends beyond the usual four (4) year program of undergraduate studies leading to a bachelor's degree and which is completed at a ~~standard~~ college or university accredited for the graduate level.
- (4) "Student teacher" means an adult who has completed the prerequisite teacher preparation as prescribed by the accredited teacher education institution in which he **or she** is enrolled, and who is jointly assigned by the institution and a local school district to engage in a period of practice teaching under the direction and supervision of the administrative and teaching staff of the school district and the institution.
- (5) "Teacher's aide" means an adult school employee who works under the direction of the professional administrative and teaching staff in performing, within the limitations of his **or her** training and competency, certain instructional and noninstructional functions in the school program including, but not limited to, clerical duties, tutoring individual pupils, leading pupils in recreational activities, conducting pupils from place to place, assisting with classroom instruction as directed by the teacher, aiding the school librarian, and preparing and organizing instructional materials and equipment.

Section 6. KRS 161.020 is amended to read as follows:

- (1) No person shall be eligible to hold the position of superintendent, principal, teacher, supervisor, director of pupil personnel, or other public school position for which certificates may be issued, or receive salary for services rendered in ~~the [such]~~ position, unless he *or she* holds a certificate of legal qualifications for ~~the [such]~~ position, **issued by the Education Professional Standards Board.**
- (2) No person shall enter upon the duties of a position requiring certification qualifications until his *or her* certificate has been filed or credentials registered with the local district ~~employer [employing him]~~.
- (3) The validity and terms for the renewal of any certificate shall be determined by the laws and regulations in effect at the time the certificate was issued.

Section 7. KRS 161.028 is amended to read as follows:

- (1) ***The Education Professional Standards Board is recognized to be a public body corporate and politic and an agency and instrumentality of the Commonwealth, in the performance of essential governmental functions.*** The Education Professional Standards Board has the authority and responsibility to:
 - (a) Establish standards and requirements for obtaining and maintaining a teaching certificate;
 - (b) Set standards for, approve, and evaluate college, university, and school district programs for the preparation of teachers and other professional school personnel. Program standards shall reflect national standards and shall address, at a minimum, the following:
 1. The alignment of programs with the state's core content for assessment as defined in KRS 158.6457;
 2. Research-based classroom practices, including effective classroom management techniques;
 3. Emphasis on subject matter competency of teacher education students;
 4. Methodologies to meet diverse educational needs of all students;
 5. The consistency and quality of classroom and field experiences, including early practicums and student teaching experiences;
 6. The amount of college-wide or university-wide involvement and support during the preparation as well as the induction of new teachers;
 7. The diversity of faculty;
 8. The effectiveness of partnerships with local school districts; and
 9. The performance of graduates on various measures as determined by the board.
 - (c) Conduct an annual review of diversity in teacher preparation programs;
 - (d) Provide assistance to universities and colleges in addressing diversity, which may include researching successful strategies and disseminating the information, encouraging the development of nontraditional avenues of recruitment and providing incentives, waiving administrative regulations when needed, and other assistance as deemed necessary;
 - (e) Discontinue approval of programs that do not meet standards or whose graduates do not perform according to criteria set by the board;
 - (f) Issue, renew, revoke, suspend, or refuse to issue or renew; impose probationary or supervisory conditions upon; issue a written reprimand or admonishment; or any combination of actions regarding any certificate;
 - (g) Develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by an employee certified by the Education Professional Standards Board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure the process does not revictimize the alleged victim or cause harm if an employee is falsely accused;
 - (h) Receive, along with investigators hired by the Education Professional Standards Board, training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedures in sex offense cases, and effective intervention with victims and offenders;

- (i) Recommend to the Kentucky Board of Education the essential data elements relating to teacher preparation and certification, teacher supply and demand, teacher attrition, teacher diversity, and employment trends to be included in a state comprehensive data and information system and report the recommendations to the Interim Joint Committee on Education;
- (j) Submit reports to the Governor and the Legislative Research Commission and inform the public on the status of teaching in Kentucky;
- (k) Devise a credentialing system that provides alternative routes to gaining certification and greater flexibility in staffing local schools while maintaining standards for teacher competence;
- (l) Develop a professional code of ethics;
- (m) ***Set the qualifications and salary for the positions of executive director and deputy executive director to the board, notwithstanding the provisions of KRS 64.640;***
- (n) Recruit, select, ***employ*** and evaluate the executive director to the board;
- (o) ***Approve employment procedures for the employment of policy level staff, subject to the provisions of KRS 12.050;***
- ~~(p)~~~~(n)~~ Approve the biennial budget request;
- ~~(q)~~~~(o)~~ Charge reasonable fees for the issuance, reissuance, and renewal of certificates that are established by administrative regulation. The proceeds shall be used to meet a portion of the costs of the issuance, reissuance, and renewal of certificates, and the costs associated with revoking certificates;
- ~~(r)~~~~(p)~~ Waive a requirement that may be established in an administrative regulation promulgated by the board. A request for a waiver shall be submitted to the board, in writing, by an applicant for certification, a postsecondary institution, or a superintendent of a local school district, with appropriate justification for the waiver. The board may approve the request if the person or institution seeking the waiver has demonstrated extraordinary circumstances justifying the waiver. Any waiver granted under this subsection shall be subject to revocation if the person or institution falsifies information or subsequently fails to meet the intent of the waiver;
- ~~(s)~~~~(q)~~ Promote the development of one (1) or more innovative, nontraditional or alternative administrator or teacher preparation programs through public or private colleges or universities, private contractors, the Department of Education, or the Kentucky Commonwealth Virtual University and waive administrative regulations if needed in order to implement the program;
- ~~(t)~~~~(r)~~ Grant approval, if appropriate, of a university's request for an alternative program that enrolls students in a postbaccalaureate teacher preparation program concurrently with employment as a teacher in a local school district. A student in the alternative program shall be granted a temporary provisional certificate and shall be a candidate in the Kentucky Teacher Internship Program, notwithstanding provisions of KRS 161.030. The temporary certificate shall be valid for a maximum of two (2) years, and shall be contingent upon the candidate's continued enrollment in the preparation program and compliance with all requirements established by the board. A professional certificate shall be issued upon the teacher candidate's successful completion of the program, the internship requirements, and all assessments required by the board;
- ~~(u)~~~~(s)~~ Grant approval, if appropriate, of a university's request for an alternative program that enrolls an administrator candidate in a postbaccalaureate administrator preparation program concurrently with employment as an assistant principal, principal, assistant superintendent, or superintendent in a local school district. An administrator candidate in the alternative program shall be granted a temporary provisional certificate and shall be a candidate in the Kentucky Principal Internship Program, notwithstanding provisions of KRS 161.030, or the Superintendent's Assessment process, notwithstanding provisions of KRS 156.111, as appropriate. The temporary certificate shall be valid for a maximum of two (2) years, and shall be contingent upon the candidate's continued enrollment in the preparation program and compliance with all requirements established by the board. A professional certificate shall be issued upon the candidate's successful completion of the program, internship requirements, and assessments as required by the board;~~and~~
- ~~(v)~~~~(t)~~ ***Employ consultants as needed;***

- (w) *Enter into contracts;*
 - (x) *Sponsor studies, conduct research, conduct conferences, and publish information as appropriate; and*
 - (y) Issue orders as necessary in any administrative action before the board.
- (2) (a) The board shall be composed of seventeen (17) members. The chief state school officer and the president of the Council on Postsecondary Education, or their designees, shall serve as ex officio voting members. The Governor shall make the following fifteen (15) appointments:
1. Nine (9) members who shall be teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational classrooms;
 2. Two (2) members who shall be school administrators, one (1) of whom shall be a school principal;
 3. One (1) member representative of local boards of education; and
 4. Three (3) members representative of postsecondary institutions, two (2) of whom shall be deans of colleges of education at public universities and one (1) of whom shall be the chief academic officer of an independent not-for-profit college or university.
- (b) *The members appointed by the Governor after the effective date of this Act shall be confirmed by the Senate and the House of Representatives under KRS 11.160. If the General Assembly is not in session at the time of the appointment, persons appointed shall serve prior to confirmation, but the Governor shall seek the consent of the General Assembly at the next regular session or at an intervening extraordinary session if the matter is included in the call of the General Assembly.*
- (c) A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs. A member shall continue to serve until his successor is named. Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he was appointed shall no longer be eligible to serve in that position.
- (d)~~(e)~~ Members of the board shall serve without compensation but shall be permitted to attend board meetings and perform other board business without loss of income or other benefits.
- (e)~~(d)~~ A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from his employment while performing board business shall be reimbursed by the board for the actual amount of any costs incurred.
- (f)~~(e)~~ A chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chairman. The executive secretary shall keep records of proceedings. Regular meetings shall be held at least semiannually on call of the chairman. The Department of Education shall provide staff and support for the board.
- (g)~~(f)~~ To carry out the functions relating to its duties and responsibilities, the board is empowered to receive donations and grants of funds; to appoint consultants as needed; and to sponsor studies, conduct conferences, and publish information.

~~[(3) — The Education Professional Standards Board shall be the successor to the State Board for Elementary and Secondary Education for purposes of performing the duties authorized in KRS 161.027, 161.028, 161.030, 161.042, 161.044, 161.046, 161.048, 161.049, 161.100, 161.115, 161.120, 161.124, and 161.126. Rules, administrative regulations, and procedures relating to these duties shall not lapse and shall continue in effect until repealed or amended by the Education Professional Standards Board.]~~

Section 8. KRS 161.030 is amended to read as follows:

- (1) Notwithstanding the age of the pupil, the certification of all teachers and other school personnel, in public schools only, is vested in the Education Professional Standards Board. When so certified, teachers and other school personnel shall not be required to have licensure, certification, or other forms of approval from any other state agency for the performance of their respective assignments within the common schools, except as provided for by law. All certificates authorized under KRS 161.010 to 161.126 shall be issued in accordance with the administrative regulations of the Education Professional Standards Board. After July 15, 1994, all certificate applications and other data collection instruments of the board shall include a request for voluntary information about the applicant's ethnic background. This information shall be available to help local school

districts locate minority candidates. A person who holds a certificate prior to this requirement may request that ethnic information be added to his *or her* file. Nothing in this section shall preclude the right of an individual in a nonpublic school from seeking voluntary certification by the Education Professional Standards Board.

- (2) Certificates shall be issued upon written application and in accordance with statutes and regulations in effect at the time of application to persons who have completed, at colleges, universities, or local school district programs approved by the Education Professional Standards Board for the preparation of teachers and other school personnel, the curricula prescribed by the administrative regulations of the Education Professional Standards Board.
- (3) Certification of all new teachers and teachers seeking additional certification shall require the successful completion of appropriate assessments prior to certification. The assessments shall be selected by the Education Professional Standards Board and shall measure knowledge in the specific teaching field of the applicant, including content of the field and teaching of that content. The Education Professional Standards Board shall determine the minimum acceptable level of achievement on each assessment. The assessments shall measure those concepts, ideas, and facts which are being taught in teacher education programs in Kentucky. Upon successful completion of the assessments and the approved teacher preparation program, a certificate valid for one (1) year shall be issued. If an out-of-state teacher with less than two (2) years' experience comes to Kentucky after the deadline for taking the assessments, a temporary certificate may be issued for a period up to six (6) months provided the local board cannot fill the vacant position with a certified teacher. The teacher shall take the assessments if they are administered during the period of the temporary certificate. The certificate shall be extended for the remainder of the year if the teacher successfully completes the assessments. If the teacher fails the assessments, the temporary certificate shall be valid only for the current semester.
- (4) A reasonable fee to be paid by the teacher and directly related to the actual cost of the administration of the assessments shall be established by the Education Professional Standards Board. Provisions shall be made for persons having less than minimum levels of performance on any assessment to repeat that assessment, and candidates shall be informed of their strengths and weaknesses in the specific performance areas. The ***Education Professional Standards Board***~~[Department of Education]~~ shall provide for confidentiality of the individual assessment scores. Scores shall be available only to the candidate and to the education officials who are responsible for determining whether established certification standards have been met. Scores shall be used only in the assessment for certification of new teachers and of out-of-state teachers with less than two (2) years of teaching experience who are seeking initial certification in Kentucky.
- (5) All new teachers and out-of-state teachers with less than two (2) years of successful teaching experience who are seeking initial certification in Kentucky shall serve a one (1) year internship. The teacher shall be a full-time employee or shall have an annual contract and serve on at least a half-time basis and shall have supervision, assistance, and assessment during the one (1) year internship. The internship may be served in a public school or a nonpublic school which meets the state performance standards as established in KRS 156.160 or which has been accredited by a regional or national accrediting association. Successful completion shall be determined by a majority vote of the beginning teacher committee. The internship period shall be counted as experience for the purpose of continuing contract status, retirement eligibility, and benefits for single salary experience increments. Upon successful completion of the beginning teacher program, the one (1) year initial teaching certificate shall be extended for the remainder of the usual duration period established for that particular certificate by Education Professional Standards Board administrative regulations.
- (6) The beginning teacher committee shall be composed of three (3) persons who have successfully completed special training in the supervision and assessment of the performance of beginning teachers as provided in subsection (8) of this section, except as provided in paragraph (g) of this subsection. The committee shall consist of a resource teacher, the school principal of the school where the internship is served, and a teacher educator appointed by a state-approved teacher training institution.
 - (a) If more than two (2) teacher interns are employed in the same school, the principal's responsibility may be shared with an assistant principal who holds certification as a principal.
 - (b) In unusual situations, the Education Professional Standards Board may permit the assistant principal to serve in lieu of the principal on a beginning teacher committee.
 - (c) If the teacher training institution is unable to provide a member, the district superintendent shall appoint an instructional supervisor from the school district.

- (d) If the intern is teaching in a regionally or nationally accredited nonpublic school without a principal, the person filling the principal member position may have other appropriate qualifications as required by administrative regulations promulgated by the Education Professional Standards Board.
 - (e) If the teacher training institution is unable to provide a member to serve on the beginning teacher committee in a nonpublic school, the chief officer of the school shall appoint an instructional supervisor or a teacher with like qualifications and responsibilities to serve on the beginning teacher committee in lieu of the teacher educator.
 - (f) The resource teacher shall be appointed by the ***Education Professional Standards Board with recommendations from the local school district***~~{Department of Education}~~ from a pool of qualified resource teachers, and, any statutes to the contrary notwithstanding and to the extent of available appropriations, shall be entitled to be paid a reasonable stipend by the ***Education Professional Standards Board***~~{Department of Education}~~ for work done outside normal working hours. In the case of a resource teacher in a nonpublic school, payment shall be made directly to the resource teacher by the ***Education Professional Standards Board***~~{Department of Education}~~. Priority shall be given to resource teachers in the following order, except as provided in paragraph (g) of this subsection:
 - 1. Teachers with the same certification in the same school;
 - 2. Teachers with the same certification in the same district;
 - 3. Teachers in the same school;
 - 4. Teachers in the same district; and
 - 5. Teachers in an adjacent school district.
 - (g)
 - 1. The resource teacher for an individual pursuing initial certification as a baccalaureate level teacher of exceptional children/communication disorders shall be a master's level teacher of exceptional children/communication disorders, if one is available.
 - 2. If a master's level teacher of exceptional children/communication disorders is not available, the Education Professional Standards Board may allow a licensed speech-language pathologist to serve on the beginning teacher committee in lieu of a resource teacher.
 - (h) The committee shall meet with the beginning teacher a minimum of three (3) times per year for evaluation and recommendation with all committee members present. In addition, each member of the committee shall observe the beginning teacher in the classroom a minimum of three (3) times per year. If the teacher's first year performance is judged by the committee to be less than satisfactory, the teacher shall be provided with an opportunity to repeat the internship one (1) time if the teacher is employed by a school district.
- (7) The resource teacher shall spend a minimum of seventy (70) hours working with the beginning teacher. Twenty (20) of these hours shall be in the classroom setting, and fifty (50) of these hours shall be in consultation other than class time or attending assessment meetings. The resource teacher shall have completed at least four (4) years of successful teaching experience as attested to by his or her immediate supervisor or by having achieved tenure and be able to show evidence of continuing professional development by having achieved a master's degree or its equivalent or the accumulation of two thousand (2,000) hours of continuing professional activities.
 - (8) By contract with teacher education institutions in the Commonwealth, the ***Education Professional Standards Board***~~{chief state school officer}~~ shall provide special training for persons who will be serving on the beginning teacher committees. Completion of special training shall be evidenced by successfully passing the assessments as prescribed by the Education Professional Standards Board. A principal hired after July 15, 1996, shall be required to complete the beginning teacher committee training program within one (1) year after his *or her* appointment.
 - (9) If an applicant establishes eligibility for a one (1) year certificate under the provisions of subsection (3) of this section, but does not become employed on the basis needed to satisfy the one (1) year internship requirement, the applicant shall be eligible for the issuance of a certificate for substitute teaching as provided by the administrative regulations of the Education Professional Standards Board. The applicant shall remain eligible for the one (1) year certificate, as provided in subsection (3) of this section, and for the opportunity to serve the internship for a period of five (5) years after establishing eligibility. If the internship is not completed within

the five (5) year period, the applicant must reestablish eligibility by repeating and passing the assessment program in effect for new teachers at that time or by completing a minimum of six (6) graduate hours toward completion of a graduate program required by administrative regulations promulgated by the Education Professional Standards Board. The option for renewal through completion of graduate hours shall be available only for the first reestablishment of eligibility.

- (10) The Education Professional Standards Board shall approve the curricula of any ~~[standard]~~ college or university, or of any department thereof, for the training of teachers, **and any nontraditional or alternative teacher preparation program offered in a public or private postsecondary education institution, private contractor, or state agency**, and shall also approve the curricula of any local district alternative certification program, when the curricula comply with the administrative regulations of the Education Professional Standards Board for the issuance of certificates and when the institution has met the terms and conditions provided in KRS 161.010 to 161.120. Any student who has completed any of these curricula, as approved by the Education Professional Standards Board, and who has completed the prescribed requirements for the issuance of certificates shall be granted a certificate corresponding to the curricula completed.

Section 9. KRS 161.042 is amended to read as follows:

- (1) The **Education Professional Standards Board**~~[Kentucky Board of Education]~~ shall provide through administrative regulation for the utilization of the common schools for the preparation of teacher education students from the colleges and universities.
- (2) Within the provisions established by the **Education Professional Standards Board**~~[Kentucky Board of Education]~~, local boards of education are authorized to enter into cooperative agreements, including financial arrangements, with colleges and universities for the purpose of providing professional laboratory experiences and student teaching experiences for students preparing for the education profession.
- (3) **The Education Professional Standards Board shall promulgate administrative regulations defining the professional requirements and general duties of a supervising teacher and requirements for a local school district and school to be used for this purpose**~~[shall have professional competencies as set out in administrative regulations promulgated by the Education Professional Standards Board. If attainment of a degree above the baccalaureate level is required of supervising teachers, the Education Professional Standards Board shall waive the requirement for teachers who have at least twenty (20) years of teaching experience and who have worked as a supervising teacher during the past five (5) years].~~
- (4) A student teacher who is jointly assigned under agreement by a teacher education institution and a local board of education shall have the same legal status and protection as a **certified**~~[certificated]~~ teacher employed within the school district and shall be responsible to the administrative staff of the school district and the supervising teacher to whom he **or she** is assigned.
- (5) Teacher education students, other than student teachers, may be permitted through cooperative agreements between the local school district and the teacher education institution, to engage in supplementary instructional activities with pupils under the direction and supervision of the professional administrative and teaching staff of the school district.

Section 10. KRS 161.049 is amended to read as follows:

- (1) As used in this section, "professional support team" means a school principal, an experienced teacher, a college or university faculty member, and an instructional supervisor. If an instructional supervisor or college or university faculty member is not available, the district shall assign a member with comparable experience. The school principal shall serve as the chairman of the team.
- (2) The Education Professional Standards Board shall establish a training program for professional support teams which shall be implemented by the **board or contracted with another agency**~~[Department of Education]~~. The training shall include content and procedures for the evaluation of teacher candidates. Completion of the training shall be evidenced by successfully passing the examinations prescribed by the board.
- (3) A local school district seeking to hire a teacher pursuant to KRS 161.048(3) shall submit a plan for a local district alternative training program to the **Education Professional Standards Board**~~[Department of Education]~~ and have it approved in accordance with administrative regulations established by the ~~[Education Professional Standards]~~ Board. The district shall show evidence that it has sought joint sponsorship of the program with a college or university. No local school district shall employ a teacher seeking certification in a

state-approved local district training program unless it has submitted a plan and received approval by the Education Professional Standards Board.

- (4) Each state approved local district alternative training program shall provide the teacher candidate with essential knowledge and skills and include, but not be limited to, the following components:
 - (a) A full-time seminar and practicum of no less than eight (8) weeks' duration prior to the time the candidate assumes responsibility for a classroom. The content of the formal instruction shall be prescribed by the Education Professional Standards Board and shall include an introduction to basic teaching skills through supervised teaching experiences with students, as well as an orientation on the policies, organization, and curriculum of the employing district.
 - (b) A period of classroom supervision while the candidate assumes responsibility on a one-half (1/2) time basis for a classroom and continuing for eighteen (18) weeks. During this period, the candidate shall be visited and critiqued no less than one (1) time per week by one (1) or more members of a professional support team appointed by the local district and assigned according to the administrative regulations adopted by the Education Professional Standards Board. The candidate shall be formally evaluated at the end of five (5) weeks, at the end of the second five (5) weeks, and at the end of the last eight (8) weeks by the members of the team. During this period, the candidate shall continue formal instruction which emphasizes student assessment, child development, learning, curriculum, instruction of exceptional children, and school and classroom organization.
 - (c) An additional period of at least eighteen (18) weeks continued supervision of the teacher candidate who may be assigned full-time classroom duties. During this period the teacher candidate shall be critiqued at least once per month and shall be observed formally and evaluated at least twice. No more than two (2) months shall pass without a formal observation. Formal instruction shall also continue during this period. In addition, opportunities shall be provided for the teacher candidate to observe the teaching of experienced teachers.
- (5) At least two hundred fifty (250) hours of formal instruction shall be provided in all three (3) phases of the program combined.
- (6) At the conclusion of the alternative training program, the chair of the support team shall prepare a comprehensive evaluation report on the teacher candidate's performance. This report shall be submitted to the Education Professional Standards Board and shall contain a recommendation as to whether the teacher candidate shall be issued a one (1) year certificate of eligibility to complete the internship pursuant to KRS 161.030. The support team shall make one (1) of the following recommendations:
 - (a) Approved: recommends issuance of certificate to complete the internship;
 - (b) Insufficient: recommends the candidate be allowed to seek reentry into a teacher preparation program; or
 - (c) Disapproved: recommends the candidate not be allowed to enter a teacher preparation program.

Section 11. KRS 161.100 is amended to read as follows:

When a district board of education satisfies the Education Professional Standards Board that it is impossible to secure qualified teachers for a position in a school under the control of the district board, the Education Professional Standards Board may issue emergency certificates to persons who meet the qualifications determined by the Education Professional Standards Board for emergency certificates. An emergency certificate shall be valid only for the specific job for which issued and for the current school term. The Education Professional Standards Board may require the passing of a written examination before an emergency certificate is issued. The examination shall be prepared and administered and the papers graded in the state *offices of the Education Professional Standards Board*~~[Department of Education]~~ under the direction of the *executive director*~~[chief state school officer]~~, in accordance with administrative regulations approved by the Education Professional Standards Board.

Section 12. KRS 161.126 is amended to read as follows:

- (1) The "designated state official" for this state shall be the *executive director of the Education Professional Standards Board*~~[chief state school officer]~~. The *executive director*~~[chief state school officer]~~ shall enter into contracts pursuant to Article III of the agreement only with the approval of the specific text by the Education Professional Standards Board.

- (2) True copies of all contracts made on behalf of this state pursuant to the agreement shall be kept on file in the office of the **Education Professional Standards Board**~~[chief state school officer]~~ and in the office of the Secretary of State. The **executive director of the board**~~[chief state school officer]~~ shall publish all contracts in convenient form.

Section 13. KRS 161.157 is amended to read as follows:

An employee of the Department of Education **or the Education Professional Standards Board** who transfers to become an employee of the local school district shall be allowed credit for accrued sick leave up to the maximum allowed for transfers for teachers between school districts as provided by KRS 161.155(3) and shall be allowed credit for each full year of employment with the Department of Education **or the Education Professional Standards Board** for the determination of pay under the school districts' single salary schedule.

Section 14. KRS 161.165 is amended to read as follows:

- (1) The **Kentucky Department of Education in cooperation with the** Education Professional Standards Board,~~[in cooperation with]~~ the Kentucky Board of Education, **local school districts, universities, and colleges**, and the Council on Postsecondary Education shall **review and revise as needed the**~~[develop a coordinated,]~~ strategic plan for increasing the number of minority teachers **and administrators** in the Commonwealth. The plan shall include, but not be limited to, recommendations on ways to:
- (a) Identify methods for increasing the percentage of minority educators in proportion to the number of minority students;
 - (b) Establish programs to identify, recruit, and prepare as teachers minority persons who have already earned college degrees in other job fields;
 - (c) Create awareness among secondary school guidance counselors of the need for minority teachers.
- (2) **The Kentucky Department of Education and**~~[Upon completion of the plan,]~~ the Education Professional Standards Board shall **promote**~~[promulgate administrative regulations to establish pilot]~~ programs that increase the percentage of minorities who enter and successfully complete a four (4) year teacher preparation program and provide support to minority students in meeting qualifying requirements for students entering a teacher preparation program at institutions of higher education.
- (3) **The Kentucky Department of Education with input from** the Education Professional Standards Board shall periodically submit a report to the Interim Joint Committee on Education that evaluates the results of these efforts and includes accompanying recommendations to establish a continuing program for increasing the number of minorities in teacher education.

Section 15. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 to 161.716 and KRS 161.990:

- (1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;
- (2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;
- (3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;
- (4) "Member" means the **commissioner of education**~~[chief state school officer]~~, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any regular or special teacher, or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:
 - (a) Local boards of education;
 - (b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;

- (c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;
- (d) The State Department of Education, other public education agencies as created by the General Assembly, *including the Education Professional Standards Board*, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;
- (e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;
- (f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;
- (g) The Department for Adult Education and Literacy;
- (h) The Department for Technical Education;
- (i) The Office of General Counsel within the Office of the Secretary of the Cabinet for Workforce Development;
- (j) The Office for Policy and Budget within the Office of the Secretary of the Cabinet for Workforce Development;
- (k) The Office of Personnel Services within the Office of the Secretary of the Cabinet for Workforce Development;
- (l) The Office for Administrative Services within the Office of the Secretary of the Cabinet for Workforce Development;
- (m) The Department of Vocational Rehabilitation;
- (n) The Kentucky Educational Collaborative for State Agency Children;
- (o) The Governor's Scholars Program;
- (p) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;
- (q) Employees of the Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the Cabinet for Workforce Development, shall be members of the Teachers' Retirement System; and
- (r) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and

Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620;{+}

- (5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);
- (6) "New teacher" means any member not a present teacher;
- (7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;
- (8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;
- (9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up employee contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:
 - (a) The member's actual salary; or
 - (b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for employees of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;
- (10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 158.782 on or after July 1, 1996. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;
- (11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;
- (12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;
- (13) "Regular interest" means interest at three percent (3%) per annum;
- (14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up employee contributions as described in KRS 161.540(2), plus accrued regular interest;

- (15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;
- (16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;
- (17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;
- (18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;
- (19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;
- (20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up employee contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;
- (21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis; and
- (22) "Full actuarial cost," when used to determine the payment that a member must pay for service credit means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in KRS 161.400.

Section 16. The General Assembly hereby confirms the following sections of Executive Order 2000-851, dated June 30, 2000 that were incorporated by reference in Executive Order 2000-1226, dated September 14, 2000, relating to the reorganization of the Education Professional Standards Board that are not otherwise confirmed by this Act:

- (a) Section VII creates and establishes the Division of Educator Preparation and Internship;
- (b) Section VIII creates and establishes the Division of Certification;
- (c) Section IX creates and establishes the Division of Technology;
- (d) Section X creates and establishes the Division of Testing and Research;
- (e) Section XI creates and establishes the Division of Legal Services;
- (f) Section XII creates and establishes the Division of Legislative and Public Relations;
- (g) Section XIII abolishes the Office of Teacher Education and Certification within the Kentucky Department of Education and transfers equipment, records, resources, staff, and materials; and
- (h) Section XIV authorizes the Education Professional Standards Board to enter into necessary Memoranda of Agreements with the Department of Education for the purpose of maintaining current leadership staff positions at salary levels established by the Kentucky Board of Education.

Approved March 20, 2001

CHAPTER 138

(HB 100)

AN ACT relating to industrial hemp.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 9 of this Act unless the context requires otherwise:

- (1) "Commission" means the Industrial Hemp Commission created by Section 4 of this Act;

- (2) *"Commissioner" means the Commissioner of the Department of Agriculture, or the Commissioner's designee;*
- (3) *"Department" means the Kentucky Department of Agriculture;*
- (4) *"Hemp products" means all products made from industrial hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal and seed oil for consumption, and certified seed for cultivation if the seeds originate from industrial hemp varieties;*
- (5) *"Industrial hemp" means all parts and varieties of the plant cannabis sativa, cultivated or possessed by a licensed grower, whether growing or not, that contain a tetrahydrocannabinol concentration of one percent (1%) or less by weight, except that the THC concentration limit of one percent (1%) may be exceeded for licensed industrial hemp seed research. Industrial hemp, as defined and applied for the purposes of Sections 1 to 9 of this Act, shall be excluded from the definition of marijuana, as defined in KRS 218A.010;*
- (6) *"Seed research" means research conducted to develop or recreate better strains of industrial hemp, particularly for the purposes of seed production. In conducting this research, higher THC concentration varieties of industrial hemp may be grown to provide breeding strains to revitalize the production of a Kentucky strain of industrial hemp. However, in no case shall the THC levels exceed three percent (3%); and*
- (7) *"Tetrahydrocannabinol" or "THC" means the natural or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, cannabis, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

The department shall promulgate administrative regulations, in accordance with the provisions of KRS Chapter 13A, to license research on industrial hemp and hemp products.

SECTION 3. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

- (1) *The Department of Agriculture shall promote the research and development of markets for Kentucky industrial hemp and hemp products after the selection and establishment of the industrial hemp research program and the Industrial Hemp Commission, and provided that adequate funds are available for these purposes from the industrial hemp program fund. The department shall work cooperatively with selected Kentucky university or universities' agricultural research programs utilizing the expertise of the university or universities in the area of agricultural research.*
- (2) *The Council on Postsecondary Education shall select a university or universities where the industrial hemp research program is to be established, after proposals are considered from all interested universities with agriculture departments in Kentucky.*
- (3) *The selected institutions' industrial hemp research program shall undertake research of industrial hemp production in the state. The department shall assist the industrial hemp research program in obtaining the necessary federal permits from the United States Drug Enforcement Agency or appropriate federal agency. In undertaking the industrial hemp research program, the university or universities are authorized to:*
 - (a) *Grow industrial hemp to conduct agronomy research and analysis of required soils, growing conditions, and harvest methods relating to the production of industrial hemp for commercial products, including, but not limited to, hemp seed, paper, clothing, and oils;*
 - (b) *Conduct seed research on various types of industrial hemp that are best suited to be grown in Kentucky, including but not limited to seed availability, creation of Kentucky hybrid types, in-the-ground variety trials and seed production;*
 - (c) *Study the economic feasibility of developing an industrial hemp market in various types of industrial hemp that can be grown in the Commonwealth;*
 - (d) *Report on the estimated value-added benefits, including environmental benefits, that Kentucky businesses would reap by having an industrial hemp market of Kentucky-grown industrial hemp varieties in the Commonwealth;*

- (e) *Study the agronomy research being conducted worldwide relating to industrial hemp varieties, production, and utilization;*
- (f) *Research and promote Kentucky industrial hemp and hemp seed on the world market that can be grown on farms in the Commonwealth; and*
- (g) *Study the feasibility of attracting private funding for the Kentucky industrial hemp research program.*
- (4) *The authorization granted in subsection (3) of this section shall not subject the industrial hemp research program or the selected university or universities where it is located to any criminal liability under the controlled substances laws of the Commonwealth. This exemption from criminal liability is a limited exemption that shall be strictly construed and that shall not apply to any activities of the industrial hemp research program or the selected university or universities that are not expressly permitted in the authorization.*
- (5) *The authorization granted in subsection (3) of this section shall not alter, amend, or repeal by implication any provision of the Kentucky Revised Statutes relating to controlled substances.*
- (6) *The selected university or universities of the industrial hemp research program shall notify the headquarters of the Department of State Police, the local barracks of the Kentucky State Police, and all other local law enforcement agencies of the duration, size, and location of all industrial hemp plots.*
- (7) *The Commissioner and the university or universities may cooperatively seek funds from both public and private sources to implement this section. The funds shall be deposited into the industrial hemp program fund.*
- (8) *By October 1, 2001, and annually thereafter, the university or universities shall report on the status and progress of the industrial hemp research program authorized by this section to the Commissioner, the Industrial Hemp Commission, and the Interim Joint Committee on Agriculture and Natural Resources.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

The Kentucky Industrial Hemp Commission is created and is attached to the Department of Agriculture for administrative purposes. The membership of the commission shall consist of at least seventeen (17) members as follows:

- (1) *The Speaker of the House of Representatives or the Speaker's designee;*
- (2) *The President of the Senate or the President's designee;*
- (3) *The chair of the Senate Agriculture and Natural Resources Committee;*
- (4) *The chair of the House Agriculture and Small Business Committee;*
- (5) *The Commissioner of the Department of Agriculture or the Commissioner's designee;*
- (6) *The commissioner of the Department of State Police or the commissioner's designee;*
- (7) *The executive director of the Governor's Office of Agricultural Policy or the executive director's designee;*
- (8) *The chairs of the agriculture departments at the Kentucky university or universities where the industrial hemp research program is to be established;*
- (9) *The president of the Kentucky Hemp Growers Cooperative Association;*
- (10) *The president of the Kentucky Sheriffs' Association;*
- (11) *The president of the Kentucky Association of Chiefs of Police; and*
- (12) *Six (6) members, three (3) appointed by the Speaker of the House and three (3) by the President of the Senate, representing the following interests:*
 - (a) *Kentucky farmers with an interest in growing industrial hemp;*
 - (b) *Retailers of industrial hemp products;*
 - (c) *Wholesalers of industrial hemp products; and*
 - (d) *Manufacturers of industrial hemp products.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

A majority of the members of the commission shall constitute a quorum. The members shall elect one (1) member to serve as chair.

SECTION 6. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

- (1) *The commission shall meet quarterly and may meet more often upon the call of the chair or by a majority of the members.*
- (2) *The commission shall be appointed and conduct the first meeting by July 1, 2001.*
- (3) *Except as provided in KRS 18A.200, members of the commission shall receive actual traveling expenses while attending meetings of the commission.*
- (4) *Staff services for the commission shall be provided by the Department of Agriculture.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

- (1) *The commission shall develop recommendations on industrial hemp legislation by December 15, 2001, and annually thereafter, shall report on the recommendations to the Governor, the Interim Joint Committee on Agriculture and Natural Resources, and to the Legislative Research Commission with respect to industrial hemp policies and practices that will result in the proper legal growing, management, use, and marketing of the state's potential industrial hemp industry. These policies and practices shall, at a minimum, address the following:*
 - (a) *Federal laws and regulatory constraints;*
 - (b) *The economic and financial feasibility of an industrial hemp market in Kentucky;*
 - (c) *Kentucky businesses that utilize industrial hemp;*
 - (d) *Examination of research on industrial hemp production and utilization;*
 - (e) *The potential for globally marketing Kentucky industrial hemp;*
 - (f) *Feasibility study of private funding for the Kentucky industrial hemp research program;*
 - (g) *Law enforcement concerns;*
 - (h) *Statutory and regulatory schemes for growing of industrial hemp by private producers; and*
 - (i) *Technical support and education about industrial hemp.*

- (2) *The commission shall also continue to monitor the research and development of industrial hemp in the United States and the Kentucky industrial hemp research program.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

Kentucky shall adopt the federal rules and regulations that are currently enacted regarding industrial hemp and any subsequent changes thereto.

SECTION 9. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

There is established and created in the State Treasury a fund entitled the "Industrial Hemp Program Fund" to provide funds to offset the costs of the industrial hemp program and the Kentucky Industrial Hemp Commission. The fund may receive state appropriations, gifts, grants, federal funds, and any other funds both public and private. Money deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the Commissioner of Agriculture or the Commissioner's representative. Any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9), and any income earned from the investments along with the unallotted or unencumbered balances in the fund shall not lapse, and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the industrial hemp program.

Approved March 20, 2001

CHAPTER 139**(HB 105)**

AN ACT relating to crimes and punishments.

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

Section 1. KRS 186.570 is amended to read as follows:

- (1) The cabinet or its agent designated in writing for that purpose may deny any person an operator's license or may suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, subject to a hearing and with or without receiving a record of conviction of that person of a crime, if the cabinet has reason to believe that:
 - (a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.
 - (b) That person has, by reckless or unlawful operation of a motor vehicle, caused, or contributed to an accident resulting in death or injury or serious property damage.
 - (c) That person has a mental or physical disability that makes it unsafe for him to drive upon the highways. The Transportation Cabinet shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish a medical review board to provide technical assistance in the review of the driving ability of these persons. The board shall consist of licensed medical and rehabilitation specialists.
 - (d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.
 - (e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and administrative regulations promulgated pursuant to KRS Chapter 13A.
 - (f) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.
 - (g) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.
 - (h) That person has failed to appear pursuant to a citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.
 - (i) That person has failed to appear pursuant to an order by the court to produce proof of security required by KRS 304.39-010 and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.
- (2) The cabinet shall deny any person a license or shall suspend the license of an operator of a motor vehicle upon receiving written notification from the Cabinet for Families and Children that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment or failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings, as provided by 42 U.S.C. secs. 651 et seq.; except that any child support arrearage which exists prior to January 1, 1994, shall not be included in the calculation to determine whether the license of an operator of a motor vehicle shall be denied or suspended. The denial or suspension shall continue until the arrearage has been eliminated, payments on the child support arrearage are being made in accordance with a court or administrative order, or the person complies with the subpoena or warrant relating to paternity or child support. Before the license may be reinstated, proof of elimination of the child support arrearage or proof of compliance with the subpoena or warrant relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16) from the court where the action is pending or the Cabinet for Families and Children shall be received by the Transportation Cabinet as prescribed by administrative regulations promulgated by the Cabinet for Families and Children and the Transportation Cabinet.
- (3) ***The cabinet or its agent designated in writing for that purpose shall deny any person an operator's license or shall suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, where the person has been declared ineligible to operate***

a motor vehicle under Section 2 of this Act for the duration of the ineligibility upon notification of the court's judgment.

- (4) The cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation, or withdrawal of their driving privileges, under provisions of this section, an informal hearing. Upon determining that the action is warranted, the cabinet shall notify the person in writing by mailing the notice to the person by first-class mail to the last known address of the person. The hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails the notice. The hearing shall be scheduled as early as practical within twenty (20) days after receipt of the request at a time and place designated by the cabinet. An aggrieved party may appeal a decision rendered as a result of an informal hearing, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.
- (5)~~[(4)]~~ The cabinet may suspend the operator's license of any resident upon receiving notice of the conviction of that person in another state of an offense there which if committed in this state would be grounds for the suspension or revocation of an operator's license. If a person so convicted is not the holder of a Kentucky operator's license, the cabinet shall deny him a license for the same period as if he had possessed a license and the license had been suspended. The cabinet may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the convicted person is a resident.
- (6)~~[(5)]~~ The Transportation Cabinet is forbidden from suspending or revoking an operator's license or assessing points or any other form of penalty against the license holder for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations. This section shall not apply to a commercial driver's license.
- (7)~~[(6)]~~ Each operator's license which has been canceled, suspended, or revoked shall be surrendered to and retained by the cabinet. At the end of the period of cancellation, suspension, or revocation, the license may be returned to the licensee after he has complied with all requirements for the issuance or reinstatement of his driving privilege.
- (8)~~[(7)]~~ Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder's driving privilege has been suspended or denied pursuant to subsection (2) of this section.

Section 2. KRS 532.356 is amended to read as follows:

- (1) Upon a person's conviction and sentencing for any nonstatus juvenile offense, moving traffic violation, criminal violation, misdemeanor, or Class D felony offense, the court shall impose the following sanctions in addition to any imprisonment, fine, court cost, or community service:
 - (a) Reimbursement to the state or local government for the person's incarceration, determined by the per person, per diem, expenses of each prisoner incarcerated by the respective local government, times the number of days he has spent or shall spend in confinement, plus any medical services received by the prisoner, less copayments paid by the prisoner. The convicted person's ability to pay all or part of the reimbursement shall be considered by the sentencing court in imposing the sanction; and
 - (b) Restitution to the crime victim as set out in KRS 439.563, 532.032, and 532.033.
- (2) *In addition to any other penalty allowed by law, a court may declare the defendant ineligible to operate a motor vehicle for a period of up to sixty (60) days where the defendant is being sentenced for a conviction of KRS 514.030 involving the theft of gasoline or special fuels from a retail establishment and the defendant has been previously convicted of KRS 514.030 for a theft of gasoline or special fuels from a retail establishment. A retail establishment may post a sign at the location where the fuel is dispensed apprising the public of the sanctions available under this subsection.*
- (3) Sanctions imposed by the sentencing court shall become a judgment of the court.

Approved March 20, 2001

CHAPTER 140**(HB 139)**

AN ACT relating to state government and declaring an emergency.

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

Section 1. KRS 6.807 is amended to read as follows:

- (1) Each legislative agent and employer, within seven (7) days following engagement of a legislative agent, shall file with the commission an initial registration statement listing the following:
 - (a) The name, business address and telephone number, and occupation of the legislative agent;
 - (b) The name, brief description of the nature of the business, nature and identity of the organized association, coalition, or public interest entity, business address and telephone number of the employer, and the real party in interest on whose behalf the legislative agent is lobbying, if it is different from the employer. For the purposes of this section, if a trade association or other charitable or fraternal organization that is exempt from federal income taxation under Section 501(c) of the Internal Revenue Code is the employer, the statement shall not list the names and addresses of each member of the association or organization, if the association or organization itself is listed;
 - (c) The name, bill number, or a brief description of the legislative action for which the legislative agent is or will be engaged in lobbying on behalf of their employer or as a representative of the organized association, coalition, or public interest entity;
 - (d) The date on which the legislative agent was engaged; and
 - (e) Certification by the employer and legislative agent that the information contained in the registration statement is complete and accurate.
- (2) The registration shall be valid through the next thirty-first day of December of an odd-numbered year, unless previously terminated.
- (3)
 - (a) In addition to the initial registration statement required by subsection (1) of this section, each legislative agent and employer shall file an updated registration statement with the commission to be received by the commission, not later than 4 p.m. on the fifteenth day of January, February, March, April, ~~and~~ May, and ~~the fifteenth day of~~ September of each ~~even-numbered year, and the fifteenth day of~~ January, May, and September in each odd-numbered year, for the period since the end of the period covered by the previous report until the last day of the month preceding the filing date. The commission may grant a reasonable extension of time for filing the updated registration statement for good cause shown.
 - (b) The updated registration statement shall confirm the continuing existence of each engagement described in an initial registration statement, and list the specific bills or resolutions on which the agent lobbied under that engagement during the period covered by the updated statement. Any statement of expenditures required to be filed by KRS 6.821 and any details of financial transactions required to be filed by KRS 6.824 shall be filed with the updated registration statement.
- (4) If a legislative agent is engaged by more than one employer, the agent shall file a separate initial and updated registration statement for each engagement. If an employer engages more than one (1) legislative agent, the employer shall file only one (1) updated registration statement under subsection (3) of this section, which shall contain the information required by subsection (3) of this section regarding all legislative agents engaged by the employer.
- (5)
 - (a) A change in any information required by subsection (1)(a), (b), or (c) of this section shall be reflected in the next updated registration statement filed under subsection (3) of this section.
 - (b) Within thirty (30) days after the termination of an engagement, the legislative agent who was employed under the engagement shall file written notice of the termination with the commission.
 - (c) If the termination of a legislative agent leaves an employer without the engagement of any legislative agents, within thirty (30) days after the termination, the employer shall file written notice with the commission of its intent to terminate its current registration.

- (6) Upon registration pursuant to subsection (1) of this section, the legislative agent shall be issued a card by the commission, showing that the legislative agent is registered. The registration card shall be valid from the date of its issuance through the next thirty-first day of December of an odd-numbered year.
- (7) Any legislative agent or employer who fails to file the initial registration statement or updated registration statement, or who fails to remedy a deficiency in any filing in a timely manner, may be fined by the commission an amount not to exceed one hundred dollars (\$100) per day, up to a maximum total fine of one thousand dollars (\$1,000) without the necessity of a complaint being filed, notwithstanding KRS 6.686(1)(a), but only after notice has been given to the alleged violator of the intent of the commission to impose a fine, including the amount of the fine, and an opportunity has been afforded the alleged violator to appear before the commission or otherwise offer evidence as he may choose in mitigation of the imposition of the fine.
- (8) Any legislative agent or employer who intentionally fails to register shall be guilty of a Class D felony.

Section 2. KRS 61.510 is amended to read as follows:

- (1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;
- (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- (3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;
- (4) "Examiner" means the medical examiners as provided in KRS 61.665;
- (5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;
- (6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;
- (7) "State" means the Commonwealth of Kentucky;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he ~~serves in~~^{occupies} the position ~~during a legislative biennium subsequent to January 1, 1960~~;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he ~~served in~~^{occupied} the position ~~during a legislative biennium~~ prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service; except that for an employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems whose prior service was in a position in an office of a Commonwealth's attorney the prior service may be validated by at least twelve (12) months of current service in the Kentucky Employees Retirement System or by at least fifteen (15) years of current service in the County Employees Retirement System. An employee participating in any of the three (3) systems administered by the

Kentucky Retirement Systems who wishes to validate prior service in a position in an office of a Commonwealth's attorney with fifteen (15) years of County Employees Retirement System service shall notify the Kentucky Retirement Systems of his or her eligibility for the service prior to January 1, 1999;

- (12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;
- (13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars (\$27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the ~~year~~^{year}~~[biennium]~~. A lump-sum bonus, severance pay, or employer provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;
- (14) "Final compensation" of a member means:
 - (a) For a member who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars (\$27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;
 - (b) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;
- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;
- (16) "Retirement allowance" means the retirement payments to which a member is entitled;
- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

- (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;
- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;
- (20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) **regular** legislative ~~sessions~~~~bienniums~~;
- (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:
 - (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;
 - (b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;
 - (c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months;
 - (d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and
 - (e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;
- (22) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;
- (23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;
- (24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
- (27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;
- (28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

- (29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;
- (30) "Person" means a natural person;
- (31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- (34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543; and
- (35) "Month" means a calendar month.

Section 3. KRS 446.010 is amended to read as follows:

As used in the statute laws of this state, unless the context requires otherwise:

- (1) "Action" includes all proceedings in any court of this state;
- (2) "Animal" includes every warm-blooded living creature except a human being;
- (3) "Attorney" means attorney-at-law;
- (4) "Bequeath" and "devise" mean the same thing;
- (5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;
- (6) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;
- (7) "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company, or association;
- (8) "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company, or association;
- (9) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted;
- (10) "Directors," when applied to corporations, includes managers or trustees;
- (11) "Domestic," when applied to corporations, means all those incorporated or formed by authority of this state;
- (12) "Domestic animal" means any animal converted to domestic habitat;
- (13) "Federal" refers to the United States;
- (14) "Foreign," when applied to corporations, includes all those incorporated or formed by authority of any other state;
- (15) "Generally accepted accounting principles" are those uniform minimum standards of and guidelines to financial accounting and reporting as adopted by the National Council on Governmental Accounting, under the auspices of the Municipal Finance Officers Association and by the Financial Accounting Standards Board, under the auspices of the American Institute of Certified Public Accountants;
- (16) "Humane society," "society," or "Society for the Prevention of Cruelty to Animals," means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;

- (17) "Issue," as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;
- (18) "Land" or "real estate" includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest;
- (19) "Legatee" and "devisee" convey the same idea;
- (20) "May" is permissive;
- (21) "Month" means calendar month;
- (22) "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;
- (23) "Owner" when applied to any animal, means any person having a property interest in such animal;
- (24) "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, and other persons with similar authority to make arrests;
- (25) "Penitentiary" includes all of the state penal institutions except the houses of reform;
- (26) "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, registered limited liability partnerships, joint stock companies, and limited liability companies;
- (27) "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;
- (28) "Regular election" means the election in even-numbered years at which members of Congress are elected and the election in odd-numbered years at which state officers are elected;
- (29) "Shall" is mandatory;
- (30) "State" when applied to a part of the United States, includes territories, outlying possessions, and the District of Columbia; "any other state" includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;
- (31) "State funds" or "public funds" means sums actually received in cash or negotiable instruments from all sources unless otherwise described by any state agency, state-owned corporation, university, department, cabinet, fiduciary for the benefit of any form of state organization, authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization whether or not the money has ever been paid into the Treasury and whether or not the money is still in the Treasury if the money is controlled by any form of state organization, except for those funds the management of which is to be reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605, and 42.615;
- (32) "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;
- (33) "United States" includes territories, outlying possessions, and the District of Columbia;
- (34) "Vacancy in office," or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;
- (35) "Violate" includes failure to comply with;
- (36) "Will" includes codicils; "last will" means last will and testament;
- (37) "Year" means calendar year;
- (38) "City" includes town;
- (39) Appropriation-related terms are defined as follows:
 - (a) "Appropriation" means an authorization by the General Assembly to expend, from public funds, a sum of money not in excess of the sum specified, for the purposes specified in the authorization and under the procedure prescribed in KRS Chapter 48;

- (b) "Appropriation provision" means a section of any enactment by the General Assembly which is not provided for by KRS Chapter 48 and which authorizes the expenditure of public funds other than by a general appropriation bill;
- (c) "General appropriation bill" means an enactment by the General Assembly that authorizes the expenditure of public funds in an executive, judicial, or legislative branch budget bill as provided for in KRS Chapter 48;~~and~~
- (40) "Mediation" means a nonadversarial process in which a neutral third party encourages and helps disputing parties reach a mutually acceptable agreement. Recommendations by mediators are not binding on the parties unless the parties enter into a settlement agreement incorporating the recommendations; **and**
- (41) ***"Biennium" means the two (2) year period commencing on July 1 in each even-numbered year and ending on June 30 in the ensuing even-numbered year.***

Section 4. Whereas new provisions of Sections 36 and 42 of the Kentucky Constitution became effective upon ratification by the people on November 7, 2000, and it is important that reports relating to the current legislative session be filed in a timely manner, an emergency is declared to exist, and Section 1 of this Act takes effect upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 20, 2001

CHAPTER 141

(HB 148)

AN ACT relating to safe deposit boxes.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 2 of this Act, unless the context requires otherwise:

- (1) ***"Financial institution" means a state or national bank, trust company, savings and loan association, or credit union;***
- (2) ***"Interested person" means the surviving spouse of the lessee, an adult child of the lessee, a parent of the lessee, a person named as the personal representative in a copy of a purported will produced by such person, a person designated by the lessee in writing acceptable to the lessor that is filed with the lessor before death of the lessee, or a person named in a court order to examine the contents of a safe deposit box for a purpose listed in subsection (1) of Section 2 of this Act;***
- (3) ***"Lessee" means a person who contracts with a lessor for the use of a safe deposit box;***
- (4) ***"Lessor" means a financial institution or safe deposit company that rents safe deposit facilities; and***
- (5) ***"Safe deposit box" means a safe deposit box, vault, or other safe deposit receptacle maintained by a lessor that may be used for the safekeeping and storage of property and documents.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

- (1) ***If satisfactory proof of the death of the lessee is presented and the interested person possesses a key to the lessee's safe deposit box, a lessor shall permit an interested person to open and examine the contents of a safe deposit box leased by a decedent in the presence of an employee of the lessor for one (1) or both of the following purposes:***
 - (a) ***To conduct a will search; and***
 - (b) ***To obtain any document purporting to be a deed to a burial plot or to give funeral or burial instructions.***
- (2) ***If the safe deposit box is opened for the purpose of conducting a will search, an employee of the lessor shall remove any document that appears to be a will and make a true and correct machine copy thereof, replace the copy in the box, and then deliver the original thereof to the person requesting the search.***

- (3) *If the safe deposit box is opened for the purpose of obtaining any document purporting to be a deed to a burial plot or to give funeral or burial instructions, the employee of the lessor shall make a true and correct machine copy thereof, replace the copy in the box, and then deliver the original thereof to the person requesting the search.*
- (4) *No contents of a safe deposit box other than a will and a document purporting to be a deed to a burial plot or to give funeral or burial instructions may be removed under this section.*

Approved March 20, 2001

CHAPTER 142

(HB 145)

AN ACT relating to foster parents.

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

Section 1. The Cabinet for Families and Children, the Personnel Cabinet, and the Department of Insurance shall prepare recommendations on the viability of Kentucky foster parents purchasing health insurance through the public employee health insurance group. The recommendations shall include:

- (1) Demographic and actuarial information about Kentucky foster parents;
- (2) Any effect of foster parents purchasing the state health insurance plan on the premiums for state employees and tax status of the state contribution for state employees;
- (3) Procedures for termination of the health insurance policy should the foster home be closed; and
- (4) Procedures for foster parents to pay the total cost of the policy premium with no state-funded contribution.

Section 2. Recommendations may include options for health insurance coverage for foster parents other than participation in the public employee health insurance group.

Section 3. The Cabinet for Families and Children, the Personnel Cabinet, and the Department of Insurance shall report their findings and recommendations to the Governor and the Legislative Research Commission by July 15, 2001.

Approved March 20, 2001

CHAPTER 143

(HB 163)

AN ACT relating to community development projects and making an appropriation therefor.

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

Section 1. 2000 Kentucky Acts Chapter 549, (House Bill 502), PART II, CAPITAL PROJECTS BUDGET, R. COMMUNITY DEVELOPMENT PROJECTS, 1. FINANCE AND ADMINISTRATION CABINET, at page 3416 is amended to read as follows:

Marion County

501. Emergency Service Center

Bond Funds

620,434~~{500,000}~~

502. Kedron Bridge

Bond Funds

379,566~~{500,000}~~

Section 2. In fiscal year 2001-2002, there is reallocated from the road fund allocation for the bridge replacement at White Lick Road Bridge in Garrard County contained in 2000 Kentucky Acts Chapter 525, on page 2785, thirty-seven thousand dollars (\$37,000) which is appropriated for the continuation of the paving project at the

Garrard County Industrial Authority. The provisions of this Act shall supersede and prevail over any conflicting provisions of the 2000 Kentucky Acts Chapter 525 (House Joint Resolution 83), the 2000-2002 State/Executive Budget Memorandum.

Approved March 20, 2001

CHAPTER 144

(HB 184)

AN ACT relating to health care.

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

Section 1. KRS 314.011 is amended to read as follows:

As used in KRS 314.011 to 314.161 and KRS 314.991, unless the context thereof requires otherwise:

- (1) "Board" means Kentucky Board of Nursing;
- (2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A;
- (3) "Nurse" means a person licensed under the provisions of this chapter as a registered nurse or as a licensed practical nurse;
- (4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:
 - (a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and
 - (b) Planning, implementation, and evaluation based on nationally accepted standards of nursing practice;
- (5) "Registered nurse" means one who is licensed under the provisions of this chapter to engage in registered nursing practice;
- (6) "Registered nursing practice" means the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:
 - (a) The care, counsel, and health teaching of the ill, injured, or infirm;
 - (b) The maintenance of health or prevention of illness of others;
 - (c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses. Components of medication administration include, but are not limited to:
 1. Preparing and giving medications in the prescribed dosage, route, and frequency;
 2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;
 3. Intervening when emergency care is required as a result of drug therapy;
 4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;
 5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and
 6. Instructing an individual regarding medications;
 - (d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care; and

- (e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses;
- (7) "Advanced registered nurse practitioner" means one who is registered and designated to engage in advanced registered nursing practice including the nurse anesthetist, nurse midwife, clinical nurse specialist, and nurse practitioner pursuant to KRS 314.042;
- (8) "Advanced registered nursing practice" means the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized postbasic program of study and clinical experience and who are certified by the American Nurses' Association or other nationally established organizations or agencies recognized by the board to certify registered nurses for advanced nursing practice. The additional acts shall, subject to approval of the board, include, but not be limited to, prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced registered nurse practitioners who engage in these additional acts shall be authorized to issue prescriptions for and dispense nonscheduled legend drugs as defined in KRS 217.905, under the conditions set forth in KRS 314.042. Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation;
- (9) "Licensed practical nurse" means one who is licensed under the provisions of this chapter to engage in licensed practical nursing practice;
- (10) "Licensed practical nursing practice" means the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:
 - (a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, a licensed physician, or dentist;
 - (b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board;
 - (c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;
 - (d) Teaching, supervising, and delegating except as limited by the board; and
 - (e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;
- (11) "School of nursing" means a nursing education program preparing persons for licensure as a registered nurse or a practical nurse;
- (12) "Continuing education" means offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge;
- (13) "Nursing assistance" means the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse;
- (14) "Sexual assault nurse examiner" means a registered nurse who has completed the required education and clinical experience and been credentialed by the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the State Medical Examiner pursuant to KRS 216B.400(4);
- (15) "Competency" means the application of knowledge and skills in the utilization of critical thinking, effective communication, interventions, and caring behaviors consistent with the nurse's practice role within the context of the public's health, safety, and welfare;

- (16) "Credential" means a current license, registration, or certificate that is issued by the board and that permits the practice of nursing;~~and~~
- (17) "Dispense" means to receive and distribute noncontrolled legend drug samples from pharmaceutical manufacturers to patients at no charge to the patient or any other party;
- (18) *"Dialysis care" means a process by which dissolved substances are removed from a patient's body by diffusion, osmosis, and convection from one (1) fluid compartment to another across a semipermeable membrane; and*
- (19) *"Dialysis technician" means a person who is not a nurse, a physician assistant, or a physician and who provides dialysis care in a licensed renal dialysis facility under the direct, on-site supervision of a registered nurse or a physician.*

SECTION 2. A NEW SECTION OF KRS 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

- (1) *It shall be unlawful for any person, other than a nurse, a physician assistant, or a physician, to provide dialysis care in a licensed renal dialysis facility unless that person holds a current active credential from the board to practice as a dialysis technician.*
- (2) *It shall be unlawful for any person to practice as a dialysis technician who is listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property.*

SECTION 3. A NEW SECTION OF KRS 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

- (1) *Establish educational requirements for credentialing as a dialysis technician;*
- (2) *Establish required standards for training programs for dialysis technicians;*
- (3) *Establish credentialing requirements for dialysis technicians;*
- (4) *Establish provisions for discipline of dialysis technicians;*
- (5) *Establish fees for initial credentialing, renewal of credentials, reinstatement of credentials, and other fees as may be necessary, for dialysis technicians; and*
- (6) *Further regulate, as necessary, dialysis technicians.*

SECTION 4. A NEW SECTION OF KRS 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

- (1) *There is hereby created, under the Board of Nursing, the Dialysis Technician Advisory Council, which shall advise the board regarding qualifications, standards for training, competency determination of dialysis technicians, and all other matters related to dialysis technicians.*
- (2) *The council shall be appointed by the board and shall consist of:*
 - (a) *One (1) member of the board, who shall serve as chair of the council;*
 - (b) *Three (3) dialysis technicians; and*
 - (c) *Three (3) nurses who regularly perform dialysis and care for patients who receive dialysis.*
- (3) *The board may solicit nominations for the council from interested parties or organizations.*
- (4) *The board shall specify the terms for the council members. Members shall serve at the discretion of the board and shall receive reimbursement for their actual and necessary expenses incurred in the performance of their official duties.*

Section 5. KRS 314.991 is amended to read as follows:

- (1) Any person who violates any provision of this chapter for which no other penalty has been provided shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500). Each day he violates any provisions of this chapter shall be considered a separate offense.
- (2) Any person who willfully makes any false representation to the board in applying for a license under this chapter shall be fined not more than five hundred dollars (\$500).

- (3) For any violation of this chapter where the board has the power to deny, revoke, probate, limit, or suspend a license, the board may, in lieu thereof or in addition to other remedies, impose a civil penalty against the violator of not more than ten thousand dollars (\$10,000).
- (4) Any person who knowingly violates KRS 314.031(1) *or subsection (1) of Section 2 of this Act* shall, for the first occurrence, be imprisoned for not more than twelve (12) months or fined not more than five hundred dollars (\$500), or both.
- (5) Any person who knowingly violates KRS 314.031(1) *or subsection (1) of Section 2 of this Act* on a second or subsequent occasion shall be imprisoned for not more than five (5) years or fined not more than ten thousand dollars (\$10,000), or both.
- (6) Any unlicensed person who knowingly poses as someone else who does hold a license under this chapter shall be guilty of a violation of KRS 314.031(1), and the penalties set out in subsections (4) and (5) of this section all apply to such conduct.
- (7) In addition to the penalties provided in subsections (4) and (5) of this section, the board may impose civil penalties for violations of KRS 314.031(1) *or subsection (1) of Section 2 of this Act* in an amount equal to one hundred dollars (\$100) for each day during which a violation occurred or continued.
- (8) All civil penalties received and collected by the board shall be deposited with the State Treasurer of the Commonwealth of Kentucky, who shall place the money to the credit of the revolving fund of the board.
- (9) Any civil penalty received and collected by the board may be recovered in an action brought thereon in the name of the Commonwealth of Kentucky in the Circuit Court.
- (10) Whenever the board has reason to believe that any person is in violation or is about to violate any provision of this chapter, it may seek a restraining order, temporary or permanent injunction, or other civil remedy against such person in the Circuit Court.
- (11) In order to obtain a temporary or permanent restraining order, or other equitable remedy, it shall not be necessary to allege or prove that an adequate remedy at law does not exist, nor shall it be necessary to allege or prove that irreparable injury, loss, or damage will result if the injunctive relief is denied. Further, it shall not be necessary to allege or prove that criminal action has been first instituted.

Approved March 20, 2001

CHAPTER 145

(HB 174)

AN ACT relating to insurance.

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

SECTION 1. A NEW SECTION OF KRS 304.14-600 TO 304.14-625 IS CREATED TO READ AS FOLLOWS:

- (1) *Any long term care policy, issued on or after the effective date of this Act, which provides coverage for assisted living benefits shall cover services received in any assisted living community which:*
 - (a) *Meets the requirements of KRS 194A.700 to 194A.729 and any administrative regulations promulgated under KRS 194A.700 to 194A.729; and*
 - (b) *Meets any additional requirements of an assisted living community set forth in the long term care policy approved by the commissioner.*
- (2) *Any long term care policy, issued on or after the effective date of this Act, which provides coverage for adult day care services shall cover services received in any adult day care facility which:*
 - (a) *Meets the requirements of KRS 205.950 or 216B.0443 and any administrative regulations promulgated under KRS 205.950 or 216B.0443; and*
 - (b) *Meets any additional requirements of an adult day care center set forth in the long term care policy approved by the commissioner.*

Section 2. KRS 304.17A-607 is amended to read as follows:

- (1) An insurer or private review agent shall not provide or perform utilization reviews without being registered with the department. A registered insurer or private review agent shall:
 - (a) Have available the services of sufficient numbers of registered nurses, medical records technicians, or similarly qualified persons supported by licensed physicians with access to consultation with other appropriate physicians to carry out its utilization review activities;
 - (b) Ensure that only licensed physicians shall:
 1. Make a utilization review decision to deny, reduce, limit, or terminate a health care benefit or to deny, or reduce payment for a health care service because that service is not medically necessary, experimental, or investigational except in the case of a health care service rendered by a chiropractor or optometrist where the denial shall be made respectively by a chiropractor or optometrist duly licensed in Kentucky; and
 2. Supervise qualified personnel conducting case reviews;
 - (c) Have available the services of sufficient numbers of practicing physicians in appropriate specialty areas to assure the adequate review of medical and surgical specialty and subspecialty cases;
 - (d) Not disclose or publish individual medical records or any other confidential medical information in the performance of utilization review activities except as provided in the Health Insurance Portability and Accountability Act, Subtitle F, secs. 261 to 264 and 45 C.F.R. secs. 160 to 164 and other applicable laws and administrative regulations;
 - (e) Provide a toll free telephone line for covered persons, authorized persons, and providers to contact the insurer or private review agent and be accessible to covered persons, authorized persons, and providers for forty (40) hours a week during normal business hours in this state;
 - (f) Be available twenty-four (24) hours a day, seven (7) days a week to conduct:
 1. Preadmission review of an emergency admission, if preauthorization is required for emergency admissions or use of an emergency room;
 2. Preauthorization of weekend admissions to a hospital, or to review services delivered on the weekend or after normal business hours, if the covered person is subject to preauthorization on weekends or after normal business hours; and
 3. Review of a patient's continued hospitalization, if a prior authorization will expire on a weekend;
 - (g) Provide decisions to covered persons, authorized persons, and all providers on appeals of adverse determinations and coverage denials of the insurer or private review agent, in accordance with this section and administrative regulations promulgated in accordance with KRS 304.17A-609;
 - (h) Provide a utilization review decision:
 1. Within twenty-four (24) hours of a request for:
 - a. Preadmission review of a hospital admission, unless additional information is needed;
 - b. Preauthorization of treatment when the covered person is already hospitalized; or
 - c. Retrospective review of an emergency hospital admission;
 2. Within two (2) business days of a receipt of a request for preauthorization for a treatment, procedure, drug, or device;
 3. Within twenty-four (24) hours of receipt of a request for review of a covered person's continued hospital stay and prior to the time when a previous authorization for hospital care will expire; and
 4. Within twenty (20) business days of the receipt of requested medical information when the insurer or private review agent has initiated a retrospective review;
 - (i) Provide written notice of review decisions to the covered person, authorized person, and providers. An insurer or agent that denies coverage or reduces payment for a treatment, procedure, drug, or device shall include in the written notice:

1. A statement of the specific medical and scientific reasons for denial or reduction of payment;
 2. The name, state of licensure, medical license number, and the title of the reviewer making the decision;
 3. A description of ~~other~~ alternative *benefits*~~treatments~~, services, or supplies covered by the health benefit plan; and
 4. Instructions for initiating or complying with the insurer's internal appeal procedure, as set forth in KRS 304.17A-617, stating, at a minimum, whether the appeal shall be in writing, time limitations, or schedules for filing appeals, and the name and phone number of a contact person who can provide additional information;
- (j) Afford participating physicians an opportunity to review and comment on all medical and surgical and emergency room protocols, respectively, of the insurer and afford other participating providers an opportunity to review and comment on all of the insurer's protocols that are within the provider's legally authorized scope of practice; and
- (k) Comply with its own policies and procedures on file with the department.
- (2) The insurer's failure to make a determination and provide written notice within the time frames set forth in this section shall be deemed to be an adverse determination by the insurer for the purpose of initiating an internal appeal as set forth in KRS 304.17A-617. This provision shall not apply where the failure to make the determination or provide the notice results from circumstances which are documented to be beyond the insurer's control.
- (3) An insurer or private review agent shall submit a copy of any changes to its utilization review policies or procedures to the department. No change to policies and procedures shall be effective until thirty (30) days after it has been filed with and approved by the commissioner.
- (4) A private review agent shall provide to the department the names of the entities for which the private review agent is performing utilization review in this state. Notice shall be provided within thirty (30) days of any change.

Section 3. KRS 304.17A-617 is amended to read as follows:

- (1) Every insurer shall have an internal appeal process to be utilized by the insurer or its designee, consistent with this section and KRS 304.17A-619 and which shall be disclosed to covered persons in accordance with KRS 304.17A-505(1)(g). An insurer shall disclose the availability of the internal review process to the covered person in the insured's timely notice of an adverse determination or notice of a coverage denial which meets the requirements set forth in KRS 304.17A-607(1)(i). For purposes of this section "coverage denial" means an insurer's determination that a service, treatment, drug, or device is specifically limited or excluded under the covered person's health benefit plan. Where a coverage denial is involved, in addition to stating the reason for the coverage denial, the required notice shall contain instructions for filing a request for review by the department.
- (2) The internal appeals process may be initiated by the covered person, an authorized person, or a provider acting on behalf of the covered person. The internal appeals process shall include adequate and reasonable procedures for review and resolution of appeals concerning adverse determinations made under utilization review and of coverage denials, including procedures for reviewing appeals from covered persons whose medical conditions require expedited review. At a minimum, these procedures shall include the following:
 - (a) Insurers or their designees shall provide decisions to covered persons, authorized persons, and providers on internal appeals of adverse determinations or coverage denials within thirty (30) days of receipt of the request for internal appeal;
 - (b) Insurers or their designees shall render a decision not later than three (3) business days after the request for an expedited appeal of either an adverse determination or a coverage denial. An expedited appeal is deemed necessary when a covered person is hospitalized or, in the opinion of the treating provider, review under a standard time frame could, in the absence of immediate medical attention, result in any of the following:
 1. Placing the health of the covered person or, with respect to a pregnant woman, the health of the covered person or the unborn child in serious jeopardy;

2. Serious impairment to bodily functions; or
 3. Serious dysfunction of a bodily organ or part;
- (c) Internal appeal of an adverse determination shall only be conducted by a licensed physician who did not participate in the initial review and denial. However, in the case of a review involving a medical or surgical specialty or subspecialty, the insurer or agent shall, upon request by a covered person, authorized person, or provider, utilize a board eligible or certified physician in the appropriate specialty or subspecialty area to conduct the internal appeal;
- (d) Those portions of the medical record that are relevant to the internal appeal, if authorized by the covered person and in accordance with state or federal law, shall be considered and providers given the opportunity to present additional information;
- (e) To facilitate expeditious handling of an appeal of an adverse determination or a coverage denial, an insurer or agent that denies, limits, reduces, or terminates coverage for a treatment, procedure, drug, or device for a covered person shall provide the person undertaking an appeal with a denial letter that shall include:
1. A statement of the specific medical and scientific reasons for denying coverage or identifying that provision of the schedule of benefits or exclusions that demonstrates that coverage is not available;
 2. The name, state of licensure, medical license number, and the title of the person making the decision;
 3. A description of ~~other~~ alternative **benefits**~~treatments~~, services, or supplies covered by the health benefit plan, if any; and
 4. Instructions for initiating an internal appeal of the adverse determination, or filing a request for review with the department where a coverage denial is upheld by the insurer on internal appeal.
- (3) The department shall establish and maintain a system for receiving and reviewing requests for review of coverage denials from covered persons, authorized persons, and providers. For purposes of this subsection "coverage denials" shall not include an adverse determination as defined in KRS 304.17A-600 or subsequent denials arising from an adverse determination.
- (a) On receipt of a written request for review of a coverage denial from a covered person, authorized person, or provider, the department shall notify the insurer which issued the denial of the request for review and shall call for the insurer to respond to the department regarding the request for review within five (5) days receipt of notice to the insurer;
- (b) Within five (5) days of receiving the notice of the request for review from the department, the insurer shall provide to the department the following information:
1. Confirmation as to whether the person who received or sought the health service for which coverage was denied was a covered person on the date of service under a health benefit plan issued by the insurer;
 2. Confirmation as to whether the covered person, authorized person, or provider has exhausted his or her rights under the insurer's appeal process under this section; and
 3. The reason for the coverage denial, including the specific limitation or exclusion of the health benefit plan demonstrating that coverage is not available;
- (c) In addition to the information described in paragraph (b) of this subsection, the insurer and the covered person, authorized person, or provider shall provide to the department any information requested by the department that is germane to its review;
- (d) On the receipt of the information described in paragraphs (b) and (c) of this subsection, unless the department is not able to do so because making a determination requires resolution of a medical issue, it shall determine whether the service, treatment, drug, or device is specifically limited or excluded under the terms of the covered person's health benefit plan. If the department determines that the treatment, service, drug, or device is not specifically limited or excluded, it shall so notify the insurer, and the insurer shall either cover the service, or afford the covered person an opportunity for external review under KRS 304.17A-621, 304.17A-623, and 304.17A-625, where the conditions precedent to the review

are present. If the department notifies the insurer that the treatment, service, drug, or device is specifically limited or excluded in the health benefit plan, the insurer is not required to cover the service or afford the covered person an external review.

Approved March 20, 2001

CHAPTER 146

(HB 225)

AN ACT relating to retirement systems coordinated under the name Judicial Form Retirement System.

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

Section 1. KRS 21.370 is amended to read as follows:

- (1) Except as provided in subsection (2) of KRS 21.410 and in subsection (2) of KRS 21.420, no benefits shall be payable under KRS 21.350 to 21.480 to any member or to his surviving spouse, unless he has completed at least eight (8) years of service, including service before becoming a member. No surviving spouse of a retired member shall be entitled to any benefits unless the person was the spouse of the member at the time he retired.
- (2) A member who has qualified for benefits ~~under [pursuant to]~~ this section may transfer to the Judicial Retirement Plan up to ten (10) years of service credit which he has earned in a retirement system administered by Kentucky Retirement Systems, and he may transfer to the Judicial Retirement Plan up to ten (10) years of service credit which he has earned in the Kentucky Legislators' Retirement Plan. If the member elects to transfer his service credit, the system or plan from which the transfer is made shall transfer to the judicial retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially assumed interest rate of the system or plan from which the transfer is made in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies ~~under [pursuant to]~~ KRS 21.400, when he pays the total difference between the amount of the funds transferred and the cost of the credit to the Judicial Retirement Plan, as determined by the actuary for the Judicial Retirement Plan. The member may pay by **transfer, if authorized under subsection (5)(d) of this section, or by** lump sum or ~~by~~ increments as set forth in **subsection (4)(b) of this section** ~~[KRS 6.515(2)(b), but an installment contract shall not extend for more than sixty (60) months]~~. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer ~~under [pursuant to]~~ KRS 21.360(6).
- (3) Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan ~~under [pursuant to]~~ subsection (1) of this section or KRS 21.375, shall receive service credit for a maximum of four (4) years for his period of service as a city police judge for a city within the Commonwealth of Kentucky, if the service was performed prior to the first Monday in January, 1978, and if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records of the city for which the service was performed. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the member in question ~~under [pursuant to]~~ KRS 21.400. Service credit awarded ~~under [pursuant to]~~ this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer ~~under [pursuant to]~~ KRS 21.360(6).
- (4) (a) 1. Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan ~~under [pursuant to]~~ subsection (1) of this section or KRS 21.375, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system thirty-five percent (35%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be

awarded and the cost shall be determined in conformity with the rate which applies to the member in question ~~under [pursuant to]~~ KRS 21.400. Service credit awarded ~~under [pursuant to]~~ this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan.

2. Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan may purchase and receive service credit for one (1) month of service for each six (6) months of service in the reserves or the National Guard by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question as provided in KRS 21.400. Service credit awarded ~~under [pursuant to]~~ this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The service in the military reserves or the National Guard shall be treated as service earned prior to participation in the plan. The purchase can be made by the member in a **transfer, if authorized under subsection (5)(d) of this section, or by a** lump-sum payment or ~~by~~ installment payments~~, as set forth in paragraph (b) of this subsection~~. The payment shall not be picked up by the employer as provided in KRS 21.360(6).
- (b) The beneficiary may purchase military service credit only at one (1) time by lump-sum payment for the amount of service he wishes to purchase, and the payment shall be made within thirty (30) days of the death of the active member. The member may purchase all of his military service credit at one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump-sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump-sum payment of the remaining principal amount, but no further installment payments shall be accepted thereafter. In this case, the member shall be credited with the military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.
- (c) The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer ~~under [pursuant to]~~ KRS 21.360(6).
- (d) No veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for a military pension in the future, unless the military pension is for service primarily on inactive duty in a reserve component of the Armed Forces, or is a disability pension which does not exceed five hundred dollars (\$500) monthly.
- (5) ***Any provision of law to the contrary notwithstanding, paragraphs (a), (b), (c), and (d) of this subsection shall apply only to applicable officials who are in office on the effective date of this Act, and who are in active contributing status to the applicable retirement plan on the effective date of this Act.***
 - (a) ***Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan under subsection (1) of this section or KRS 21.375, shall receive service credit for a maximum of four (4) years each for his period of service as a Domestic Relations Commissioner, a Master Commissioner, or a District Court Trial Commissioner of the Commonwealth of Kentucky, or a combination thereof, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The member may pay by transfer as set forth in paragraph (d) of this subsection, or by lump sum or increments as set forth in subsection***

- (4)(b) of this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).*
- (b) Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan under subsection (1) of this section or KRS 21.375, shall receive service credit for his period of service to the United States Government, other than service in the Armed Forces, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The member may pay by transfer as set forth in paragraph (d) of this subsection, or by lump sum or increments as set forth in subsection (4)(b) of this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).*
 - (c) Any member of the Judicial Retirement Plan, who has at least two hundred forty (240) months of service credit may purchase a combined maximum total of five (5) years retirement service credit that is not otherwise purchasable, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The member may pay by transfer as set forth in paragraph (d) of this subsection, or by lump sum or increments as set forth in subsection (4)(b) of this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).*
 - (d) A member of the Judicial Retirement Plan may purchase service credit under the provisions of this section by transferring funds under the rules in 26 U.S.C. sec. 401(a)(31) directly from a retirement plan or a deferred compensation arrangement maintained by his employer that is a qualified plan under 26 U.S.C. sec. 401(a). Service credit may also be purchased by a rollover of funds from a qualified retirement plan under the rules specified in 26 U.S.C. sec. 402(c). The Judicial Retirement Fund shall accept the transfer or rollover to the extent permitted under the rules specified in 26 U.S.C. secs. 402(c) and 401(a)(31). The amount shall be credited to the individual member's contribution account and shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).*

Section 2. KRS 6.515 is amended to read as follows:

- (1) Service credit in the Legislators' Retirement Plan shall be acquired only by service as a legislator after July 1, 1980, while a member of the plan, by transfer of credit as provided in KRS 6.505, or by purchase ~~of military service credit pursuant to subsection (2) of this section, or by~~ transfer of credit as provided in ~~subsection (6) of~~ this section.
- (2) (a) 1. Any active member of the Legislators' Retirement Plan who has at least five (5) years of service credit in the Legislators' Retirement Plan, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system thirty-five percent (35%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the legislator in question ~~under~~ ~~pursuant to~~ KRS 6.520. Service credit awarded ~~under~~ ~~pursuant to~~ this subsection shall be equivalent, for all purposes of the Legislators' Retirement Plan, to other service credit earned in the plan.

2. Any active member of the Legislators' Retirement Plan who has at least five (5) years of service credit in the Legislators' Retirement Plan may purchase and receive service credit for one (1) month of service for each six (6) months of service in the reserves or the National Guard by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on the assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the legislator in question ~~under [pursuant to]~~ KRS 6.520. Service credit awarded as provided in this subsection shall be equivalent, for all purposes of the Legislators' Retirement Plan, to other service credit earned in the plan. The service in the military reserves or the National Guard shall be treated as service earned prior to participation in the plan. The purchase can be made by the member ***by transfer, if authorized under subsection (7)(d) of this section, or*** in a lump-sum payment or by installment payments, as set forth in paragraph (b) of this subsection. The payment shall not be picked up by the employer as provided in KRS 6.505(2).
 - (b) The beneficiary may purchase military service credit only at one (1) time by lump-sum payment for the amount of service he wishes to purchase, and the payment shall be made within thirty (30) days of the death of the active member. The member may purchase all of his military service credit at one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump-sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump-sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump-sum payment of the remaining principal amount, but no further installment payments shall be accepted thereafter. In this case, the member shall be credited with the military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.
 - (c) The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer ~~under [pursuant to]~~ KRS 6.505(2).
 - (d) No veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for a military pension in the future, unless the military pension is for service primarily on inactive duty in a reserve component of the Armed Forces, or is a disability pension which does not exceed five hundred dollars (\$500) monthly.
- (3) If spouses both serve in the General Assembly, but not simultaneously, they may combine their service credit in the Legislators' Retirement Plan for all purposes of that plan into a single account, and may jointly designate to whom the service retirement allowance shall be paid. The designation shall not be changed once it is made. Assuming equal service credit, the benefits paid, ~~under [pursuant to]~~ this section, to a legislator and his or her spouse who also served as a legislator shall not exceed the benefits that the same legislator and his or her spouse would receive if the spouse had not served as a legislator.
- (4) In the event of divorce, rights to benefits shall be considered marital property subject to the provisions of KRS 403.190.
- (5) A former legislator whose spouse currently serves in the General Assembly and who received a refund of contributions ~~under [pursuant to]~~ KRS 21.460 may repurchase service credit which he or she previously had by repaying the amount refunded with interest at six percent (6%) per annum, and the service credit shall become part of the single account authorized by subsection (3)~~(2)~~ of this section.
- (6) A member who has qualified for benefits ~~under [pursuant to]~~ KRS 6.525(1) may transfer to the Legislators' Retirement Plan up to ten (10) years of service credit which he has earned in a retirement system administered by Kentucky Retirement Systems. If the member elects to transfer his service credit, the system from which the transfer is made shall transfer to the legislators' retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to date of transfer at the actuarially assumed interest rate of the system from which the transfer is made in effect at the time the contributions were made, compounded annually at that same interest rate. The member

shall be entitled to the transferred service credit, at the rate at which he qualifies ~~under [pursuant to]~~ KRS 6.520, when he pays the total difference between the amount of the funds transferred and the cost of the credit to the Legislators' Retirement Plan, as determined by the actuary for the Legislators' Retirement Plan. The member may pay by *transfer, if authorized under subsection (7)(d) of this section*, by lump sum, or by increments, as provided for in ~~subsection (2)(b) of~~ this section, ~~but an installment contract shall not extend for more than sixty (60) months~~. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer ~~under [pursuant to]~~ KRS 6.505(2).

- (7) *Any provision of law to the contrary notwithstanding, paragraphs (a), (b), (c), and (d) of this subsection shall apply only to applicable officials who are in office on the effective date of this Act, and who are in active contributing status to the applicable retirement plan on the effective date of this Act.*
- (a) *Any active member of the Legislators Retirement Plan who is vested in the Legislators Retirement Plan under KRS 6.525, shall receive service credit for a maximum of four (4) years each for his period of service as a Domestic Relations Commissioner, a Master Commissioner, or a District Court Trial Commissioner of the Commonwealth of Kentucky, or a combination thereof, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators Retirement Plan, to other service credit earned in the plan. The member may pay by transfer, by lump sum, or by increments as set forth in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(2).*
- (b) *Any active member of the Legislators Retirement Plan who is vested in the Legislators Retirement Plan under KRS 6.525, shall receive service credit for his period of service to the United States Government, other than service in the Armed Forces, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators Retirement Plan, to other service credit earned in the plan. The member may pay by transfer, by lump sum, or by increments as set forth in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(2).*
- (c) *Any member of the Legislators Retirement Plan, who has at least two hundred forty (240) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit that is not otherwise purchasable, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The member shall be entitled to the service credit at the rate at which he qualifies under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators Retirement Plan, to other service credit earned in the plan. The member may pay by transfer, by lump sum, or by increments as set forth in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(2).*
- (d) *A member of the Legislators Retirement Plan may purchase service credit under the provisions of this section by transferring funds under the rules in 26 U.S.C. sec. 401(a)(31) directly from a retirement plan or a deferred compensation arrangement maintained by his employer that is a qualified plan under 26 U.S.C. sec. 401(a). Service credit may also be purchased by a rollover of funds from a qualified retirement plan under the rules specified in 26 U.S.C. sec. 402(c). The Legislators Retirement Fund shall accept the transfer or rollover to the extent permitted under the rules specified in 26 U.S.C. secs. 402(c) and 401(a)(31). The amount shall be credited to the*

individual member's contribution account and shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(2).

Approved March 20, 2001

CHAPTER 147

(HB 191)

AN ACT relating to high school athletics.

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

Section 1. KRS 156.070 is amended to read as follows:

- (1) The Kentucky Board of Education shall have the management and control of the common schools and all programs operated in these schools, including interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for the Blind, and community education programs and services.
- (2) The Kentucky Board of Education may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations, and bylaws of any organization or agency so designated shall be approved by the board, and provided further that any administrative hearing conducted by the designated managing organization or agency shall be conducted in accordance with KRS Chapter 13B.
 - (a) The state board or its designated agency shall assure through promulgation of administrative regulations that if a secondary school sponsors or intends to sponsor an athletic activity or sport that is similar to a sport for which National Collegiate Athletic Association members offer an athletic scholarship, the school shall sponsor the athletic activity or sport for which a scholarship is offered. The administrative regulations shall specify which athletic activities are similar to sports for which National Collegiate Athletic Association members offer scholarships.
 - (b) The state board or any agency designated by the state board to manage interscholastic athletics shall not promulgate rules, administrative regulations, or bylaws which prohibit pupils in grades seven (7) to eight (8) from participating in any high school sports except for high school varsity ~~twrestling, soccer,~~ and football, or from participating on more than one (1) school-sponsored team at the same time in the same sport. The Kentucky Board of Education, or an agency designated by the board to manage interscholastic athletics, may promulgate administrative regulations restricting, limiting, or prohibiting participation in high school varsity ~~twrestling, soccer,~~ and football for students who have not successfully completed the eighth grade.
 - (c) Any student who turns nineteen (19) years of age prior to August 1 shall not be eligible for high school athletics in Kentucky. Any student who turns nineteen (19) years of age on or after August 1 shall remain eligible for that school year only.
 - (d) ***If the state board or any agency designated by the state board to manage interscholastic athletics promulgates administrative regulations that permit a school district to employ or assign nonteaching personnel to serve in a coaching position, those administrative regulations shall apply to all sports and sports activities, including basketball and football. The administrative regulations shall give preference to the hiring or assignment of certified personnel over nonteaching personnel in coaching positions.***
- (3) (a) The Kentucky Board of Education is hereby authorized to lease from the State Property and Buildings Commission, or others, whether public or private, any lands, buildings, structures, installations, and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. The lease may be for any initial term commencing with the date of the lease and ending with the next ensuing June 30, which is the close of the then-current fiscal biennium of the Commonwealth, with exclusive options in favor of the board to renew the same for successive ensuing bienniums, July 1 in each even year to June 30 in the next ensuing even year; and the rentals may be fixed at the sums in each biennium, if renewed, sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on, and provide reserves for, any revenue bonds which the State Property and Buildings Commission may determine to be necessary and

sufficient, in agreement with the board, to provide the cost of acquiring the television and related facilities, with appurtenances, and costs as may be incident to the issuance of the bonds.

- (b) Each option of the Kentucky Board of Education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the chief state school officer, and delivered to the secretary of the Finance and Administration Cabinet as a member of the commission. The option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the Finance and Administration Cabinet before the close of business on the last working day in April immediately preceding the beginning of the succeeding biennium.
- (c) The Kentucky Board of Education shall not itself operate leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the chief state school officer and the Department of Education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to the reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any lease and to the cost of providing for the operation of the television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises, and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.
- (4) The state board may, on the recommendation and with the advice of the chief state school officer, prescribe, print, publish, and distribute at public expense such administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports, and placards as each deems necessary for the efficient management, control, and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by the board shall be inclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.
- (5) Upon the recommendation of the chief state school officer or his designee, the state board shall establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets, and all other matters which are the administrative responsibility of the Department of Education.

Approved March 20, 2001

CHAPTER 148

(HB 238)

AN ACT relating to increment financing.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 and 2 of this Act, unless the context otherwise requires:

- (1) *"Agency" means an urban renewal and community development agency established under KRS Chapter 99; a development authority established under KRS Chapter 99; a nonprofit corporation established under KRS Chapter 58.180; an air board established under KRS 183.132 to 183.160; a local industrial development authority established under KRS 154.50-301 to 154.50-346; or a designated department, division, or office of a city or county;*
- (2) *"City" means any city or urban-county;*
- (3) *"County" means any county or charter county;*
- (4) *"Development area" means a contiguous geographic area, that may be within one (1) or more cities or counties, defined and created for economic development purposes by an ordinance of a city or county in which one (1) or more economic projects are proposed to be located;*
- (5) *"Increment" means that amount of money received by any taxing district or the state that is determined by subtracting the amount of old revenues from the amount of new revenues in any year for which a taxing district or the state and an agency have agreed upon under the terms of a grant contract;*
- (6) *"New revenues" means any tax revenues received by any taxing district or the state from a development area in any year after the establishment of the development area;*
- (7) *"Old revenues" means the amount of tax revenues received by any taxing district or the state from a development area in the last year prior to the establishment of the development area and any relocation revenues;*
- (8) *"Project" means the development of facilities for:*
 - (a) *The transportation of goods or persons by air, ground, water, or rail;*
 - (b) *The transmission or utilization of information through fiber optic cable or other advanced means;*
 - (c) *Residential, commercial, industrial, public, recreational, educational, or other uses;*
 - (d) *Open space; or*
 - (e) *Any combination thereof;*
- (9) *"Grant contract" means that agreement by which a taxing district or the state permits the payment to an agency of a portion of increments or an amount equal to a portion of increments received by it in return for the benefits accrued to the taxing district or the state by reason of a project undertaken by an agency in a development area;*
- (10) *"Taxing district" means a city, county, or other taxing district that encompasses all or part of a development area, or the state, but does not mean a school district; and*
- (11) *"Relocation revenue" means the prior year tax revenue received by a city, county, state, or other taxing district other than a school district, attributable to that portion of the operations of any existing business located in the Commonwealth which is relocating to a development area.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) *A taxing district may enter into a grant contract with an agency for an annual release to the agency for an amount equal to not less than fifty percent (50%) nor more than eighty percent (80%) of the increment.*
- (2) *A city, county, state, or other taxing district is authorized to execute a grant contract with an agency in acknowledgment of benefits to be derived by it with the development area as leveraged in part by the undertaking of an economic development project and in order to promote economic development.*
- (3) *Any amount derived by an agency under the terms of a grant contract shall be used solely for the purposes of the project and in the development area.*
- (4) *Any agency that enters into a contract with any taxing district for the release of any increments that may arise during the period of a grant contract shall notify the official charged with collecting of taxes in the development area of the execution of a grant contract, and the official charged with the collection of taxes shall, in each year a grant contract is in effect, determine the amount of the increment that is the subject of the grant contract between the taxing district and the agency; and, upon the basis of the agreement between the taxing district and the agency, the official shall divide and distribute the funds derived from the area between the taxing district and the agency.*

- (5) *Any grant contract authorized by the state pursuant to subsection (2) of this section shall be evaluated to determine the amount of incremental state revenues from the project by the Office of the State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet. Approval shall not be granted if it is determined that there is no net positive economic impact to the Commonwealth.*

Approved March 20, 2001

CHAPTER 149

(HB 258)

AN ACT relating to mine safety and declaring an emergency.

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

Section 1. KRS 351.101 is amended to read as follows:

The General Assembly hereby finds and declares the following:

- (1) The highest priority and concern of the Commonwealth must be the health and safety of the coal industry's most valuable resource, the miner.
- (2) The continued prosperity of the coal industry is of primary importance to the state.
- (3) A high priority must be given to increasing the productivity and competitiveness of the mines in this state.
- (4) An inordinate number of miners are killed or injured during the first few months of their experience in a mine and upon acquiring new work assignments in a mine.
- (5) These injuries result in the loss of life and serious injury to miners and are an impediment to the future growth of the state's coal industry.
- (6) Mining is a technical occupation with various specialties requiring individualized training and education.
- (7) Injuries can be reduced through proper miner training, education and certification.
- (8) *Mine safety can be improved by the imposition and enforcement of sanctions against licensed premises and certified and noncertified personnel whose willful and repeated violations of mine safety laws place miners in imminent danger of serious injury or death.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

- (1) *The Mine Safety Review Commission is created as an independent governmental entity attached to the Public Protection and Regulation Cabinet for administrative purposes. The commission shall:*
 - (a) *Conduct hearings and issue orders regarding a licensee, coal operation, or other person involved in the mining of coal in accordance with KRS 351.194;*
 - (b) *Jointly with the department establish a process for the department's referral of allegations of mine safety violations to the commission for adjudication;*
 - (c) *Make any recommendations to the department that it believes appropriate upon its review, consideration, and analysis of:*
 1. *All reports of coal mining fatalities provided by the commissioner under subsection (14) of Section 4 of this Act;*
 2. *Any case in which a miner or a mine owner or operator, in the professional opinion of the department has a history of significant and substantial safety violations even though there has been no serious injury or death resulting from the violations;*
 3. *Any case in which a miner or a mine owner or operator has been convicted of a criminal charge for a violation of a federal mine safety standard or standards; and*
 4. *Any case in which the Federal Mine Safety and Health Administration has made a recommendation relating to certification of an individual certified under this chapter.*

- (2) *The Mine Safety Review Commission shall consist of three (3) members appointed by the Governor subject to the consent of the Senate and the House of Representatives in accordance with KRS 11.160. Of the members of the Mine Safety Review Commission first appointed under this section, one (1) shall be appointed for a term of one (1) year; one (1) shall be appointed for a term of two (2) years; and one (1) shall be appointed for a term of three (3) years. After the initial appointments, members of the board shall be appointed for terms of four (4) years. A member may be reappointed at the expiration of his or her previous term. Members shall continue to serve until a successor is appointed and qualified.*
- (3) *The members of the Mine Safety Review Commission shall have the qualifications required of judges of the Court of Appeals, except for residence in a district, and shall be subject to the same standards of conduct made applicable to a part-time judge by the Rules of the Kentucky Supreme Court. The members shall receive the per diem equivalent of the salary of a judge of the Court of Appeals for each day spent in conducting the business of the commission.*
- (4) *The Governor shall designate a member of the Mine Safety Review Commission to serve as chair and shall fill any vacancy in the office of chair.*
- (5) *The Governor may remove any member for good cause including violation of the code of judicial conduct and repeated failure to perform satisfactorily the specific duties assigned in this chapter or KRS Chapter 352. The Governor may remove the member only after furnishing him or her with a written copy of the charges against that member and holding a public hearing if requested by the member.*
- (6) *The commission shall meet on the call of the chair or a majority of the members of the commission.*
- (7) *The Public Protection and Regulation Cabinet shall provide administrative services to the Mine Safety Review Commission. If the commission deems it necessary to employ hearing officers to assist it, the Public Protection and Regulation Cabinet shall employ hearing officers to assist the commission in accordance with KRS Chapter 13B, notwithstanding the provisions of KRS 13B.030(2)(b).*
- (8) *The commission may conduct hearings, compel the attendance of witnesses, administer oaths, and conduct oversight activities as may be required to ensure the full implementation of its duties.*
- (9) *The department shall provide the Mine Safety Review Commission with all information requested by the commission for the fulfillment of its responsibilities under this chapter and KRS Chapter 352.*

Section 3. KRS 351.010 is amended to read as follows:

- (1) As used in this chapter, unless the context requires otherwise:
 - (a) "Approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department of Mines and Minerals;
 - (b) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;
 - (c) "Board" means the Mining Board created in KRS 351.105;
 - (d) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;
 - (e) **"Commission" means the Mine Safety Review Commission created by Section 2 of this Act;**
 - (f) "Commissioner" means commissioner of the Department of Mines and Minerals;
 - (g)~~(f)~~ "Department" means the Department of Mines and Minerals;
 - (h)~~(g)~~ "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;
 - (i)~~(h)~~ "Excavations and workings" means the excavated portions of a mine;
 - (j)~~(i)~~ "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;

- (k)~~(j)~~ "Gassy mine" means any mine in which there is a record of methane having been ignited, or having been detected with a permissible flame safety lamp, or where methane in the amount of twenty-five hundredths percent (0.25%) or more has been found not less than twelve (12) inches from the roof, face, or rib, using approved methane testers or detectors or by analysis. However on and after June 19, 1976, all mines shall be classified as gassy or gaseous;
- (l)~~(k)~~ "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) oxygen, nor more than one-half of one percent (0.5%) of carbon dioxide, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;
- (m)~~(l)~~ "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;
- (n)~~(m)~~ "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management, but which are administered as distinct units shall be considered a separate mine;
- (o)~~(n)~~ "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of the persons employed therein;
- (p)~~(o)~~ "Open-pit mine" shall include open excavations and open-cut workings including but not limited to auger operations and highwall mining systems for the extraction of coal;
- (q)~~(p)~~ "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;
- (r)~~(q)~~ "Permissible" refers to any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration and that meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification by the approving agency;
- (s)~~(r)~~ "Preshift examination" means the examination of a mine or any portion thereof where miners are scheduled to work or travel, which shall be conducted not more than three (3) hours before any on-coming shift;
- (t)~~(s)~~ "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;
- (u)~~(t)~~ "Shaft" means a vertical opening through the strata that is used in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;
- (v)~~(u)~~ "Slope" means an inclined opening used for the same purpose as a shaft;
- (w)~~(v)~~ "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines; and
- (x)~~(w)~~ "Supervisory personnel" means a person certified under the provisions of this chapter to assist in the supervision of a portion or the whole of the mine or of the persons employed therein.

(2) Except as the context otherwise requires, this chapter applies only to commercial coal mines.

(3) The definitions in KRS 352.010 apply also to this chapter, unless the context requires otherwise.

Section 4. KRS 351.070 is amended to read as follows:

(1) The commissioner shall have full authority over the department and shall superintend and direct the activities of the mine inspectors and other personnel of the department.

(2) He shall appoint a deputy commissioner of the Department of Mines and Minerals, prescribe his powers and duties.

- (3) He may, whenever necessary, divide the coal fields of the state into as many inspection districts as necessary, so as to equalize as nearly as practicable the work of each inspector, and may assign to the inspectors their respective districts.
- (4) He may, whenever he deems it necessary in the interest of efficient supervision of the mines, temporarily employ the services of additional mine inspectors or change inspectors from one district to another.
- (5) He shall superintend and direct the inspection of mines and cause to be investigated the character and quality of air in mines whenever conditions indicate the necessity of doing so.
- (6) He shall collect statistics relating to coal mining in the state and make an annual report of the statistics.
- (7) He shall see that maps, plans, projections, and proposed developments of all underground coal mines are made and filed in his office.
- (8) He shall keep a properly indexed, permanent record of all inspections made by himself and the personnel of the department.
- (9) He shall exercise general supervision over the training of officials and workmen in safety and first aid and mine rescue methods, and may conduct demonstrations in safety whenever he deems it advisable.
- (10) He shall exercise general supervision over the dissemination of information among officials and employees concerning mine ventilation, mining methods, and mine accidents and their prevention, and shall assume full charge in the event of mine fire or explosion or other serious accident at any mine in the state.
- (11) He may assist in the resumption of operations of any mine or gather data for the development of any coal seams that would be of any benefit to the state or create new employment.
- (12) The commissioner may prescribe reasonable safety standards governing the use of explosives, and electrical and mechanical equipment in the operation of open-pit or surface mines.
- (13) The commissioner shall have the power and authority to promulgate, amend, or rescind any administrative regulations he deems necessary and suitable for the proper administration of this chapter. Administrative regulations may be promulgated, amended, or rescinded by the commissioner only after public hearing or an opportunity to be heard thereon of which proper notice by publication pursuant to KRS Chapter 424, has been given. Administrative regulations so promulgated shall carry the full force and effect of law.
- (14) ***The commissioner shall ascertain the cause or causes of any coal mining fatality and, within sixty (60) days of completion of the investigation, shall report his findings and recommendations to the Governor, the Mine Safety Review Commission, the Mining Board, and the Legislative Research Commission. The recommendations may include, without being limited to, the need to promulgate or amend administrative regulations to prevent the recurrence of the conditions causing the fatality.***

Section 5. KRS 351.105 is amended to read as follows:

- (1) ~~The [Board of Miner Training, Education, and Certification is abolished and shall be immediately replaced by the] Mining Board~~ ***is created.***
- (2) The board shall be made up of eight (8) persons, all of whom shall be citizens of Kentucky and from the coal industry in Kentucky. The board's membership shall reflect a fair representation from eastern Kentucky and western Kentucky, large and small operations, and union and nonunion coal production. The Governor shall appoint the members of the board to include:
 - (a) Three (3) members representing management; the Alliance of Kentucky Coal shall submit three (3) nominees for each management position on the board;
 - (b) Three (3) members representing labor; the United Mine Workers of America shall submit three (3) nominees for each labor position on the board;
 - (c) ***One (1) citizen member with knowledge of mining who is not a coal operator and is not employed in a supervisory or nonsupervisory position in a mine***~~[The commissioner of the Department of Mines and Minerals];~~ and
 - (d) The director of the Division of Miner Training, Education, and Certification.

The ~~board~~~~[commissioner of the department]~~ shall ***elect one (1) of its members to*** serve as chairman. The director of the Division of Miner Training, Education, and Certification shall be a nonvoting member.

- (3) Excluding the ***citizen member***~~[commissioner]~~ and the director of the Division of Miner Training, Education, and Certification, initial appointments to the board shall be made in the following manner and shall reflect equal representation as to number and term regarding both the management and the labor positions: two (2) members for a period of two (2) years; two (2) members for a period of three (3) years; and two (2) members for a period of four (4) years. After the initial appointments, members of the board shall be appointed to four (4) year terms. ***The citizen member shall be appointed for a term of four (4) years.*** Members of the board~~including members of the Board of Miner Training, Education, and Certification abolished by this section,~~ may be reappointed at the expiration of their previous appointment at the pleasure of the Governor. Members shall continue to serve until a successor is appointed and qualified.
- (4) Two (2) of the persons appointed to the board shall be employed in nonsupervisory positions at mines in this Commonwealth and shall have a minimum of five (5) years' underground experience in the industry and a mine foreman's certificate. Two (2) of the persons shall be employed in supervisory positions by coal companies operating in the Commonwealth and shall have a minimum of five (5) years' experience in the coal mining industry and a mine foreman's certificate. One (1) of each of the members holding supervisory and nonsupervisory mine positions shall have a minimum of five (5) years' practical experience working in a surface or underground coal mine. The director of the Division of Miner Training, Education, and Certification shall have a minimum of five (5) years' practical underground mining experience.
- (5) Whenever a vacancy on the board occurs, appointments shall be made in the manner prescribed in this section. The vacancy shall be filled by the Governor within thirty (30) days from the date the vacancy occurs.
- (6) A quorum of the board shall be five (5) voting members; the board may act officially by a majority of those members who are present, except that no action shall be taken without a majority of affirmative votes.~~Action concerning revocation, suspension, or probation of a mine's license or a miner's certification shall require two-thirds (2/3) of the voting members present. When necessary for the commissioner to be absent or to recuse himself, he is empowered to name an alternate to serve as chairman.~~
- (7) Each member of the board shall receive one hundred fifty dollars (\$150) each day while actually engaged in the performance of the work of the board, shall receive mileage at the rate provided by the state's travel regulation for each mile actually traveled from the home of the member to the place of the meeting and returning therefrom, and shall receive reimbursement for food and lodging at a reasonable and customary rate, which shall be paid out of the State Treasury upon proper requisition approved by the commissioner.
- (8) The board shall act on all matters ***it deems appropriate for board action or*** brought before it by the department~~and, after hearing, issue orders with respect to these matters~~.
- (9) The board shall meet periodically ***on the call of the chair or a majority of the members of the board. The Governor shall remove any member who fails to appear at three (3) consecutive meetings of the board, or at one-half (1/2) of the meetings held in a one (1) year period.***~~at the direction of the commissioner~~
- (10) ***The board shall***~~to~~ review this chapter and KRS Chapter 352 and make recommendations regarding the amendment of those chapters.
- (11)~~(10)~~ The board shall review and approve all administrative regulations, ***including administrative regulations required by Section 6 of this Act,*** proposed by the department that relate to the mining of coal, ***penalties,*** or the certification of miners before those administrative regulations are promulgated in accordance with KRS Chapter 13A.
- (12)~~(11)~~ No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.
- (13)~~(12)~~ The board may conduct hearings, compel the attendance of witnesses, administer oaths, and conduct oversight activities as may be required to ensure the full implementation of its programs and standards.

SECTION 6. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

The department shall:

- (1) ***Promulgate administrative regulations that establish comprehensive criteria for the imposition and enforcement of sanctions against certified and noncertified personnel and owners and part-owners of licensed premises whose intentional violation of, or order to violate, mine safety laws place miners in***

imminent danger of serious injury or death. These criteria shall include, but not be limited to, the following:

- (a) *In the case of individuals that are certified miners, the Mine Safety Review Commission may revoke or suspend an individual's certification, or probate an individual's certification for up to ten (10) working days for first offenses, and the Mine Safety Review Commission shall establish a maximum penalty for subsequent offenses;*
- (b) *In the case of individuals that are owners or part-owners of licensed premises, the Mine Safety Review Commission may impose civil monetary penalties against individuals not to exceed ten thousand dollars (\$10,000); and*
- (c) *In the case of noncertified personnel, the Mine Safety Review Commission may impose civil monetary fines equivalent to the value of the wages they receive for up to ten (10) working days for first offenses and the commission shall establish maximum penalties for subsequent offenses;*
- (2) *Promulgate administrative regulations that establish comprehensive criteria for the Mine Safety Review Commission's imposition of penalties against licensed premises if an owner or part-owner intentionally orders mine safety laws to be violated that place miners in imminent danger of serious injury or death. These penalties shall include, but not be limited to, the revocation or suspension of the mine's license, the probation of a mine's license for a first offense, or the imposition of a penalty against the licensee not to exceed the gross value of the production of the licensed premise for up to ten (10) working days;*
- (3) *Direct that an employer shall not directly or indirectly reimburse a sanctioned miner or mine supervisor for days of work lost as a result of sanctions imposed by the Mine Safety Review Commission;*
- (4) *Establish procedures by which the department shall communicate with the Federal Mine Safety and Health Administration (MSHA) concerning allegations of mine safety violations against Kentucky coal operators and miners;*
- (5) *Jointly with the Mine Safety Review Commission establish a process for referring allegations of mine safety violations to the Mine Safety Review Commission for adjudication; and*
- (6) *Establish procedures to distribute quarterly reports to every licensed entity describing mine fatalities, serious mine accidents, and penalties imposed on certified and noncertified personnel and licensed premises and to require the report to be distributed to every certified working miner employed by the licensed entity, posted at work sites, and reviewed at regular mine safety meetings.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

The members of the Mine Safety Review Commission and the Mining Board shall complete a forty (40) hour new miner training course if they have not completed the course within the previous two (2) years. In addition, they shall participate in a site visit of an underground mine and a surface coal mine and thereafter make a site visit of an underground mine at least every three (3) years.

Section 8. KRS 351.102 is amended to read as follows:

- (1) No person shall be assigned duties by a licensee as a laborer or supervisor working for the purpose of mining coal unless the person holds a valid certificate of competency and qualification or a valid permit as trainee issued in accordance with this section.
- (2) A permit as trainee miner shall be issued by the commissioner to any person who has completed a program of education of a minimum of forty (40) hours for underground mining or sixteen (16) hours for surface mining or who has completed a certified mine technology program and has passed an examination approved by the commissioner. An additional eight (8) hours of mine-specific training shall be administered to the trainee miner by the licensee, which training shall be documented on a form approved by the commissioner. This education and training program shall be determined and established by the board, as provided in KRS 351.106.
- (3) Trainee miners shall work within the sight and sound of a certified miner.
- (4) Any miner holding a certificate of competency and qualification may have one (1) person working with him and under his direction as a trainee miner. Any person certified as a mine foreman or assistant mine foreman shall have no more than five (5) persons working under his supervision or direction as trainee miners for the purpose of learning and being instructed in the duties of underground coal mining.

- (5) A certificate of competency and qualification as a miner shall be issued by the commissioner to any person who has a minimum of forty-five (45) working days' experience within a thirty-six (36) month period as a trainee miner and demonstrated competence as a miner.
- (6) All examinations for the certification of a miner shall be of a practical nature and shall determine the competency and qualification of the applicant to engage in the mining of coal with reasonable safety to himself and his fellow employees. The examination shall be given orally if the miner is unable to read or comprehend a written examination.
- (7) Examinations shall be held in any district office during regular business hours.
- (8) If the commissioner or his authorized representative finds that an applicant is not qualified and competent, he shall notify the applicant not more than ten (10) days after the date of examination.
- (9) Any applicant aggrieved by an action of the commissioner or his authorized representative in failing or refusing to issue a certificate of qualification and competency shall, within ten (10) days of notice of the action complained of, appeal to the commissioner who shall either affirm the action or issue the certificate to the applicant.
- (10) If the applicant is aggrieved by the action of the commissioner, he may appeal to the ~~commissioner~~**board** which shall hold a hearing on the matter in accordance with KRS Chapter 13B.
- (11) The applicant may appeal from the final order of the ~~commissioner~~**board** by filing in the **Franklin** Circuit Court ~~in the judicial circuit in which he resides~~ a petition for appeal in accordance with KRS Chapter 13B.

Section 9. KRS 351.106 is amended to read as follows:

- (1) The **Mining** Board shall establish criteria and standards for a program of education and training to be required of prospective miners, miners, and all certified persons. This education and training shall be provided in a manner determined by the commissioner to be adequate to meet the standards established by the board, which shall include as a minimum the requirements of KRS 351.102 and the requirements of the federal government for the training of miners for new work assignments, and at least eight (8) hours of annual retraining and reeducation for all certified persons.
- (2) Beginning with the first full calendar year after the effective date established by the board and during each calendar year thereafter, each certified miner shall receive at least eight (8) hours of retraining and reeducation.
- (3) Newly-hired experienced miner training shall satisfy the miner's annual retraining requirement if a time lapse occurs between the miner's last training anniversary date and the next scheduled training anniversary date for the mine where he is newly employed, if the miner has complied with the annual retraining requirements within the last twelve (12) months from the date of his newly hired experienced miner training.
- (4) Retraining and reeducation sessions shall be conducted at times and in numbers to reasonably assure each certified miner an opportunity to attend.
- (5) The licensee shall pay all certified miners their regular wages and benefits while they receive training required by the department.
- (6) Willful failure of a working miner to complete annual retraining and reeducation requirements shall constitute grounds for revocation, suspension, or probation of his certificate.
- (7) If the department discovers a miner working without proper training or the licensee cannot provide proof of training, the miner shall be withdrawn from the mine and the licensee shall pay the miner his regular wages until the training is administered and properly documented.
- (8) When employment is terminated, the licensee shall provide the employee a copy of his training records, upon request. If the employee does not request his training records immediately, the licensee shall, within fifteen (15) days, provide the employee with those training records.
- (9) The board may, upon its own motion or whenever requested to do so by the commissioner, deem applicable certificates issued by other states to be proof of training and education equal to the requirements of KRS 351.102 or deem training provided by appropriate federal agencies to be adequate to meet training and education requirements established by the board, if the training and education meet the minimum requirements of this chapter.

- (10) The commissioner may promulgate reasonable administrative regulations necessary to establish a program to implement the provisions of this chapter according to the criteria and standards established by the board. This program shall include, but not be limited to, implementation of a program of instruction and the conduct of examinations to test each applicant's knowledge and understanding of the training and instruction.
- (11) The commissioner shall keep and maintain records of board meetings, activities of the board, and current records on all certified miners, all of which shall be maintained by computer for ready access.
- (12) The commissioner is authorized and directed to utilize state mine inspectors, mine safety instructors, the state mine foreman examiner, private and public institutions of education, and other qualified persons available to him in implementing the program of instruction and examination.
- (13) The commissioner may make recommendations~~[-or supply information]~~ to the board as he may deem appropriate. ***The commissioner shall provide information to the board at the board's request.*** The commissioner is authorized and directed to utilize state and federal moneys and personnel that may be available to the department for educational and training purposes in the implementation of the provisions of this chapter.
- (14) All training and education required by this chapter may be conducted in classrooms, on the job, or in simulated mines.

Section 10. KRS 351.160 is amended to read as follows:

- (1) The commissioner of the department shall annually make a report to the Governor ***and the Legislative Research Commission*** of his proceedings during the preceding calendar year. The annual report shall be prepared and printed as soon as possible after the close of the calendar year. The annual report shall cover the complete operation of the mines in this Commonwealth during the preceding calendar year, enumerating all accidents occurring in or about any such mines during that year, and giving such other information as the commissioner deems useful, and making such suggestions as he deems important as to further legislation on the subject of mining.
- (2) The commissioner shall keep and index a permanent record of all inspections made by himself and of all reports relating to inspection of mines furnished to him by mine inspectors. All such records of the department shall be public records and shall, at all times, be open to the inspection of the public, and shall be laid before the Governor ***or the Legislative Research Commission*** upon ~~their~~^{his} request at any time.
- (3) The department shall furnish certified copies of any such records, when requested to do so, upon payment of such fee as is generally charged by courts of record for certified copies. Such fee shall be paid into the Treasury of the state.

Section 11. KRS 351.194 is amended to read as follows:

- (1) ***The Mine Safety Review Commission shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish administrative hearings procedures to be followed in determining if violations of mine safety laws, including, but not limited to, violations that meet the criteria established in subsection (1) or (2) of Section 6 of this Act have occurred and to establish a process to review recommended orders from any hearing officers acting on behalf of the commission. The procedures shall follow the requirements of KRS Chapter 13B.***
- (2) The ~~chair~~^{commissioner} or A majority of the ***Mine Safety Review Commission***~~board~~ may convene a meeting of the ~~commission~~^{board} at which it shall consider whether to schedule a hearing regarding any licensee, coal operation, or other person involved in the mining of coal.
- (3)~~(2)~~ If the ~~commission~~^{board} determines that there is probable cause to believe that the licensee, coal operation, or other person against whom the department has made allegations of unsafe work practices or other violation of applicable law is guilty of an alleged violation, the ~~commission~~^{board} shall schedule a hearing at which the department shall offer evidence in support of the allegations made by it. The licensee, coal operation, or other person against whom the allegations are made shall be given not less than twenty (20) days' written notice of the charges against him, together with the date, time, and place at which the charges shall be heard, and of his opportunity to be represented by counsel, produce evidence and witnesses on his behalf, and examine the evidence and documents that may be produced against him. The ~~commission~~^{board} may also be represented by counsel and shall not be bound by the technical rules of evidence, but its order shall be based upon competent evidence. Any licensee or other person summoned to appear at a hearing in the manner established in this subsection may, in writing, waive the notice required to be given to him.

- (4)~~(3)~~ The ***commission***~~board~~ may proceed with its hearing of charges made by the department against any licensee, coal operation, or other person who, after being duly notified in accordance with the requirements of this section, fails to appear at or participate in the hearing and who fails to assert any legitimate basis for the failure.
- (5)~~(4)~~ Within ninety (90) days after hearing, the ***commission***~~board~~ shall issue an order in which it sets out its determinations concerning each matter coming before it. Copies of the order shall be provided to all parties to the hearing. The department shall carry out or enforce, as appropriate, the order of the ***commission***~~board~~, which may include though not be limited to the ***imposition of civil penalties***, revocation, suspension, or probation of the mine license or the miner's certification.
- (6) ***The commission may modify a civil penalty or fine established under this chapter, under criteria established by the commission by administrative regulations.***
- (7) ***In assessing monetary penalties within the limits provided in Section 6 of this Act, the commission shall consider the operator's history of previous violations, the appropriateness of the penalty to the size of the operator charged, whether the operator was negligent, the effect on the operator's ability to continue in business, the gravity of the violation, the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation, and whether a penalty has been imposed by the Federal Mine Safety and Health Act for a violation that arose out of the same set of facts or circumstances.***
- (8)~~(5)~~ An appeal of an order of the ***commission***~~board~~ shall be filed in the ***Franklin*** Circuit Court~~of the county in which the mining operation is located~~ within thirty (30) days of entry of the order.

Section 12. KRS 352.390 is amended to read as follows:

The ***Mine Safety Review Commission***~~board~~ shall revoke, suspend, or probate certificates if it is established in the judgment of the ***commission***~~board~~ that the holder has become unworthy to hold the certificate by reason of violation of law, intemperate habits, incapacity, abuse of authority, failure to comply with the mining laws of the Commonwealth of Kentucky, or for other just cause. The same procedure provided in subsections ***(10) and (11)***~~and (12)~~ of KRS 351.102 shall apply to the certificate holder.

Section 13. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.

6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
 7. Superintendent of Public Instruction.
 8. Auditor of Public Accounts.
- II. Program cabinets headed by appointed officers:
1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
 2. Education, Arts, and Humanities Cabinet:
 - (a) Department of Education.
 - (1) Kentucky Board of Education.
 - (2) Education Professional Standards Board.
 - (b) Department for Libraries and Archives.
 - (c) Kentucky Arts Council.
 - (d) Kentucky Educational Television.
 - (e) Kentucky Historical Society.
 - (f) Kentucky Teachers' Retirement System Board of Trustees.
 - (g) Kentucky Center for the Arts.
 - (h) Kentucky Craft Marketing Program.
 - (i) Kentucky Commission on the Deaf and Hard of Hearing.
 - (j) Governor's Scholars Program.
 - (k) Governor's School for the Arts.
 - (l) Operations and Development Office.
 - (m) Kentucky Heritage Council.
 - (n) Kentucky African-American Heritage Commission.
 - (o) Board of Directors for the Center for School Safety.
 3. Natural Resources and Environmental Protection Cabinet:
 - (a) Environmental Quality Commission.

- (b) Kentucky Nature Preserves Commission.
 - (c) Department for Environmental Protection.
 - (d) Department for Natural Resources.
 - (e) Department for Surface Mining Reclamation and Enforcement.
 - (f) Office of Legal Services.
 - (g) Office of Information Services.
 - (h) Office of Inspector General.
4. Transportation Cabinet:
- (a) Department of Highways.
 - 1. Office of Program Planning and Management.
 - 2. Office of Project Development.
 - 3. Office of Construction and Operations.
 - 4. Office of Intermodal Programs.
 - 5. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Fiscal Management.
 - (e) Department of Rural and Municipal Aid.
 - (f) Department of Human Resources Management.
 - (g) Office of the Secretary.
 - (h) Office of General Counsel and Legislative Affairs.
 - (i) Office of Public Affairs.
 - (j) Office of Transportation Delivery.
 - (k) Office of Minority Affairs.
 - (l) Office of Policy and Budget.
5. Cabinet for Economic Development:
- (a) Department of Administration and Support.
 - (b) Department for Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department of Community Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
- (a) Public Service Commission.
 - (b) Department of Insurance.
 - (c) Department of Housing, Buildings and Construction.
 - (d) Department of Financial Institutions.
 - (e) Department of Mines and Minerals.

- (f) Department of Public Advocacy.
 - (g) Department of Alcoholic Beverage Control.
 - (h) Kentucky Racing Commission.
 - (i) Board of Claims.
 - (j) Crime Victims Compensation Board.
 - (k) Kentucky Board of Tax Appeals.
 - (l) Backside Improvement Commission.
 - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
 - (n) Department of Charitable Gaming.
 - (o) ***Mine Safety Review Commission.***
7. Cabinet for Families and Children:
- (a) Department for Community Based Services.
 - (b) Department for Disability Determination Services.
 - (c) Public Assistance Appeals Board.
 - (d) Office of the Secretary.
 - (1) Kentucky Commission on Community Volunteerism and Service.
 - (e) Office of the General Counsel.
 - (f) Office of Program Support.
 - (g) Office of Family Resource and Youth Services Centers.
 - (h) Office of Technology Services.
 - (i) Office of the Ombudsman.
 - (j) Office of Performance Enhancement.
8. Cabinet for Health Services.
- (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission on Children with Special Health Care Needs.
 - (e) Office of Certificate of Need.
 - (f) Office of the Secretary.
 - (g) Office of the General Counsel.
 - (h) Office of Program Support.
 - (i) Office of the Inspector General.
 - (j) Office of Aging Services.
9. Finance and Administration Cabinet:
- (a) Office of Legal and Legislative Services.
 - (b) Office of Management and Budget.
 - (c) Office of Financial Management.
 - (d) Office of the Controller.

- (e) Department for Administration.
 - (f) Department of Facilities Management.
 - (g) State Property and Buildings Commission.
 - (h) Kentucky Pollution Abatement Authority.
 - (i) Kentucky Savings Bond Authority.
 - (j) Deferred Compensation Systems.
 - (k) Office of Equal Employment Opportunity Contract Compliance.
 - (l) Office of Capital Plaza Operations.
 - (m) County Officials Compensation Board.
 - (n) Kentucky Employees Retirement Systems.
 - (o) Commonwealth Credit Union.
 - (p) State Investment Commission.
 - (q) Kentucky Housing Corporation.
 - (r) Governmental Services Center.
 - (s) Kentucky Local Correctional Facilities Construction Authority.
 - (t) Kentucky Turnpike Authority.
 - (u) Historic Properties Advisory Commission.
 - (v) Kentucky Kare Health Insurance Authority.
 - (w) Kentucky Tobacco Settlement Trust Corporation.
10. Labor Cabinet:
- (a) Department of Workplace Standards.
 - (b) Department of Workers' Claims.
 - (c) Kentucky Labor-Management Advisory Council.
 - (d) Occupational Safety and Health Standards Board.
 - (e) Prevailing Wage Review Board.
 - (f) Workers' Compensation Board.
 - (g) Kentucky Employees Insurance Association.
 - (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.
 - (j) Kentucky Occupational Safety and Health Review Commission.
 - (k) Office of Administrative Services.
 - (l) Office of Labor-Management Relations and Mediation.
 - (m) Office of General Counsel.
 - (n) Workers' Compensation Funding Commission.
 - (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
 - (b) Department of Tax Administration.

- (c) Office of Financial and Administrative Services.
 - (d) Department of Law.
 - (e) Department of Information Technology.
 - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
- (a) Department of Travel.
 - (b) Department of Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (d) Kentucky Horse Park Commission.
 - (e) State Fair Board.
 - (f) Office of Administrative Services.
 - (g) Office of General Counsel.
13. Cabinet for Workforce Development:
- (a) Department for Adult Education and Literacy.
 - (b) Department for Technical Education.
 - (c) Department of Vocational Rehabilitation.
 - (d) Department for the Blind.
 - (e) Department for Employment Services.
 - (f) State Board for Adult and Technical Education.
 - (g) The State Board for Proprietary Education.
 - (h) The Foundation for Adult Education.
 - (i) Office of Training and Reemployment.
 - (j) Office of General Counsel.
 - (k) Office of Communication Services.
 - (l) Office of Development and Industry Relations.
 - (m) Office of Workforce Analysis and Research.
 - (n) Office for Administrative Services.
 - (o) Office for Policy and Budget.
 - (p) Office of Personnel Services.
 - (q) Unemployment Insurance Commission.
14. Personnel Cabinet:
- (a) Office of Administrative and Legal Services.
 - (b) Department for Personnel Administration.
 - (c) Department for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Kentucky Kare.
 - (f) Division of Performance Management.
 - (g) Division of Employee Records.

- (h) Division of Staffing Services.
- (i) Division of Classification and Compensation.
- (j) Division of Employee Benefits.
- (k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Council on Postsecondary Education.
- 3. Department for Local Government.
- 4. Kentucky Commission on Human Rights.
- 5. Kentucky Commission on Women.
- 6. Department of Veterans' Affairs.
- 7. Kentucky Commission on Military Affairs.
- 8. The Governor's Office for Technology.
- 9. Commission on Small Business Advocacy.

Section 14. Sections 1 to 13 of this Act shall supersede Executive Order 2001-83, dated January 19, 2001.

Section 15. Whereas problems associated with imposition of sanctions for violations of mine safety laws must be addressed expeditiously in order to further protect the life and safety of miners in Kentucky, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved March 20, 2001

CHAPTER 150

(HB 279)

AN ACT relating to cigarettes.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 10 and 11 of this Act:

- (1) *"Cabinet" means the Revenue Cabinet;*
- (2) *"Cigarettes" means cigarettes as defined in KRS 138.130;*
- (3) *"Importer" means an importer as defined in 26 U.S.C. sec. 5702(l);*
- (4) *"Manufacturer" means any person who manufactures or produces cigarettes within or without the Commonwealth;*
- (5) *"Master settlement agreement" means the settlement agreement (and related documents) entered into on November 23, 1998, by Kentucky and leading United States tobacco product manufacturers;*
- (6) *"Package" means package as is defined in 15 U.S.C. sec. 1333(4); and*
- (7) *"Person" means person as defined in KRS 446.010.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

No person shall:

- (1) *Sell or distribute, in this Commonwealth; acquire, hold, own, possess, or transport in this Commonwealth; for sale or distribution in this Commonwealth; or import or cause to be imported into this Commonwealth for sale or distribution in this Commonwealth:*
 - (a) *Any cigarettes the package of which:*
 1. *Bears any statement, label, stamp, sticker, or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed, or used in the United States including, but not limited to, a label stating "For Export Only," "U.S. Tax Exempt," "For Use Outside U.S.," or similar wording; or*
 2. *Does not comply with:*
 - a. *All requirements imposed by or in accordance with federal law regarding warnings, and other information on packages of cigarettes manufactured, packaged, or imported for sale, distribution, or use in the United States including, but not limited to, the precise warning label specified in the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. sec. 1333; and*
 - b. *All federal trademark and copyright laws;*
 - (b) *Any cigarettes in violation of federal law or federal regulations, including but not limited to cigarettes imported into the United States in violation of 26 U.S.C. sec. 5754, 26 U.S.C. sec. 5704, 19 U.S.C. secs. 1681-1681b, U.S. Customs Law including Title VII of the Tariff Act of 1930 or Public Law 106-476, the Imported Cigarette Compliance Act of 2000; or*
 - (c) *Any cigarettes for which there has not been submitted to the Secretary of the United States Department of Health and Human Services the list or lists of the ingredients added to tobacco in the manufacture of the cigarettes required by the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. sec. 1335a;*
- (2) *Alter the package of any cigarettes, prior to the sale or distribution to the ultimate consumer, so as to remove, conceal, or obscure:*
 - (a) *Any statement, label, stamp, sticker, or notice described in subsection (1)(a)2.a. of this section; or*
 - (b) *Any health warning that is not specified in or does not conform with the requirements of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. sec. 1333; or*
- (3) *Affix any stamp required by KRS 138.146 or make other evidence of tax payment as provided in KRS 138.155 to the package of any cigarettes described in subsection (1) of this section or altered in violation of subsection (2) of this section.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

On or before the fifteenth business day of each month, each person licensed to affix the stamp required by KRS 138.146 or make other evidence of tax payment as provided in KRS 138.155 shall file with the cabinet, for all cigarettes imported into the United States to which the person has affixed the stamp required by KRS 138.146 or made other evidence of tax payment as provided in KRS 138.155 in the preceding month, a copy of the customs certificates required by 19 U.S.C. 1681a(c) for the entry of cigarettes into the United States.

SECTION 4. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

- (1) *The cabinet may revoke or suspend the license issued in accordance with KRS 138.195 of any licensee and impose a civil penalty in an amount not to exceed the greater of five hundred percent (500%) of the retail value of the cigarettes involved or five thousand dollars (\$5,000) upon finding a violation by the licensee of the provisions of Section 2 or 3 of this Act.*
- (2) *Cigarettes that are acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this Commonwealth in violation of the provisions of Section 2 or 3 of this Act shall be treated as contraband under KRS 138.165 and be subject to seizure and forfeiture. Notwithstanding the provisions of KRS 138.165, all cigarettes seized and forfeited shall be destroyed. Cigarettes shall be treated as contraband whether the violation of the provisions of Section 2 or 3 of this Act is knowing or otherwise.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

For the purposes of Sections 1 to 10 and 11 of this Act, cigarettes imported or reimported into the United States for sale or distribution under any trade name, trade dress, or trademark that is the same as or is confusingly similar to any trade name, trade dress, or trademark used for cigarettes manufactured in the United States for sale or distribution in the United States shall be presumed to have been purchased outside of the ordinary business channels of trade.

SECTION 6. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

- (1) *A violation of the provisions of Section 2 or 3 of this Act shall constitute an unlawful trade practice as provided in KRS 365.260 to 365.380 and, in addition to any remedies or penalties set forth in Sections 4, 7, and 9 of this Act, shall be subject to any remedies or penalties available for a violation of the provisions of KRS 365.260 to 365.380.*
- (2) *Any person who sells, distributes, or manufactures cigarettes shall be bound by Kentucky law on unfair trade practices, KRS 365.020 to 365.050.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

Any person that commits any of the acts prohibited by Section 2 of this Act, either knowing or having reason to know he or she is doing so, or that fails to comply with any of the requirements in Section 3 of this Act is guilty of a Class D felony and, in addition, may be subject to a fine of not more than five thousand dollars (\$5,000) and costs of prosecution.

SECTION 8. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

- (1) *The provisions of Sections 2 and 3 of this Act shall be enforced by the Attorney General, but at the request of the Attorney General or the Attorney General's duly authorized agent, the State Police and all local police authorities shall enforce the provisions of Sections 2 and 3 of this Act. The Attorney General has concurrent powers with prosecuting attorneys of the Commonwealth to enforce the provisions of Section 3 or 4 of this Act.*
- (2) *For the purpose of enforcing the provisions of Sections 3 and 4 of this Act, the Attorney General and any agency that the Attorney General shall have delegated enforcement responsibility under subsection (1) of this section may request information from any state or local agency and may share information with and request information from any federal agency and any agency of any other state or any local agency of that state.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

Any person who sells, distributes, or manufactures cigarettes and sustains direct economic or commercial injury as a result of a violation of Section 2 or 3 of this Act may bring an action in good faith for appropriate injunctive relief.

SECTION 10. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

- (1) *The provisions of Sections 2 and 3 of this Act shall not apply to:*
 - (a) *Cigarettes allowed to be imported or brought into the United States for personal use; and*
 - (b) *Cigarettes sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C. sec. 1555(b) and any implementing regulations, but the provisions of Sections 3 and 4 of this Act shall apply to any cigarettes that are brought back into the customs territory for resale within the customs territory.*
- (2) *The penalties provided in Sections 4, 6, and 7 of this Act are in addition to any other penalties imposed under other law.*

Section 11. KRS 138.146 is amended to read as follows:

- (1) The cigarette tax imposed by KRS 138.130 to 138.205 shall be due when any licensed wholesaler or unclassified acquirer takes possession within this state of untax-paid cigarettes.
- (2) The tax shall be paid by the purchase of stamps by a resident wholesaler within forty-eight (48) hours after the cigarettes are received by him. A stamp shall be affixed to each package of an aggregate denomination not less than the amount of the tax upon the contents thereof. The stamp, so affixed, shall be prima-facie evidence of payment of tax. Unless such stamps have been previously affixed, they shall be so affixed by each resident

wholesaler prior to the delivery of any cigarettes to a retail location or any person in this state. The evidence of tax payment shall be affixed to each individual package of cigarettes by a nonresident wholesaler prior to the introduction or importation of the cigarettes into the territorial limits of this state. The evidence of tax payment shall be affixed by an unclassified acquirer within twenty-four (24) hours after the cigarettes are received by him.

- (3) The cabinet shall by regulation prescribe the form of cigarette tax evidence, the method and manner of the sale and distribution of such cigarette tax evidence, and the method and manner that such evidence shall be affixed to the cigarettes. *All cigarette tax evidence prescribed by the cabinet shall be designed and furnished in a fashion to permit identification of the person that affixed the cigarette tax evidence to the particular package of cigarettes, by means of numerical rolls or other mark on the cigarette tax evidence. The cabinet shall maintain for at least three (3) years, information identifying the person that affixed the cigarette tax evidence to each package of cigarettes. This information shall not be kept confidential or exempt from disclosure to the public through open records.*
- (4) Units of cigarette tax evidence shall be sold at their face value, but the cabinet shall allow as compensation to any licensed wholesaler an amount of tax evidence equal to thirty cents (\$0.30) face value for each three dollars (\$3) of tax evidence purchased at face value. The cabinet shall have the power to withhold compensation from any licensed wholesaler for failure to abide by any provisions of KRS 138.130 to 138.205 or any regulations promulgated thereunder. Any refund or credit for unused cigarette tax evidence shall be reduced by the amount allowed as compensation at the time of purchase.
- (5) No tax evidence may be affixed, or used in any way, by any person other than the person purchasing such evidence from the cabinet. Such tax evidence may not be transferred or negotiated, and may not, by any scheme or device, be given, bartered, sold, traded, or loaned to any other person. Unaffixed tax evidence may be returned to the cabinet for credit or refund for any reason satisfactory to the cabinet.
- (6) In the event any retailer shall receive into his possession cigarettes to which evidence of Kentucky tax payment is not properly affixed, he shall within twenty-four (24) hours notify the cabinet of such fact. Such notice shall be in writing, and shall give the name of the person from whom such cigarettes were received, and the quantity of such cigarettes, and such written notice may be given to any field agent of the cabinet. The written notice may also be directed to the secretary of revenue, Frankfort, Kentucky. If such notice is given by means of the United States mail, it shall be sent by certified mail. Any such cigarettes shall be retained by such retailer, and not sold, for a period of fifteen (15) days after giving the notice provided in this subsection. The retailer may, at his option, pay the tax due on any such cigarettes according to rules and regulations to be prescribed by the cabinet, and proceed to sell the same after such payment.
- (7) Cigarettes stamped with the cigarette tax evidence of another state shall at no time be commingled with cigarettes on which the Kentucky cigarette tax evidence has been affixed, but any licensed wholesaler, licensed sub-jobber or licensed vending machine operator may hold cigarettes stamped with the tax evidence of another state for any period of time, subsection (2) of this section notwithstanding.

Section 12. This Act takes effect January 1, 2002.

Approved March 20, 2001

CHAPTER 151

(HB 254)

AN ACT relating to classified personnel in local school districts.

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

Section 1. KRS 78.615 is amended to read as follows:

- (1) Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the system while he is classified as regular full-time as defined in KRS 78.510 unless the person did not elect to become a member as provided by KRS 61.545(3) or by KRS 78.540(2). After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 78.610(4).

- (a) For employees who are not employed by a school board, service credit shall be allowed for each month contributions are deducted or picked up during a fiscal or calendar year, if the employee receives creditable compensation for an average of one hundred (100) hours or more of work per month based on the actual hours worked in a calendar or fiscal year. If the average number of hours of work is less than one hundred (100) hours per month, the employee shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.
- (b) For noncertified employees of school boards, for service prior to July 1, 2000, service credit shall be allowed for each month contributions are deducted or picked up under the employee's employment contract during a school year determined by dividing the actual number of contracted days worked by twenty (20) and rounded to the nearest whole month if the employee receives creditable compensation for an average of eighty (80) or more hours of work per month based on the employee's employment contract. The school board shall certify the number of days worked, the rate of pay, and the hours in a work day for each employee monthly or annually. The employer shall file at the retirement office the final monthly report or the annual report for a fiscal year no later than twenty (20) days following the completion of the fiscal year. The retirement system shall impose a penalty on the employer of one thousand dollars (\$1,000) if the information is not submitted by the date required with an additional two hundred and fifty dollars (\$250) for each additional thirty (30) day period the information is reported late.
 - 1. If the employee works fewer than the number of contracted days, the employee shall receive service credit determined by dividing the actual number of contracted days worked by twenty (20) and rounded to the nearest whole month, provided that the number of hours worked during the period averages eighty (80) or more hours.
 - 2. If the employee works fewer than the number of contracted days and the average number of hours worked is less than eighty (80) per month, then the employee shall receive service credit for each calendar month in which he worked eighty (80) or more hours.
 - 3. The retirement system shall refund contributions and service credit for any period for which the employee is not given credit under this subsection.
- (c) For noncertified employees of school boards, for service on and after July 1, 2000, at the close of each fiscal year, the retirement system shall add service credit to the account of each member who made contributions to his or her account during the year. Members shall be entitled to a full year of service credit if their total paid days were not less than one hundred eighty (180) days ~~of a one hundred eighty-five (185) day contract~~ for a regular school or fiscal year. In the event a member is paid for less than one hundred eighty (180) days, the member may purchase credit according to administrative regulations promulgated by the system. In no case shall more than one (1) year of service be credited for all service performed in one (1) fiscal year. Members who complete their employment contract prior to the close of a fiscal year and elect to retire prior to the close of a fiscal year shall have their service credit reduced by eight percent (8%) for each calendar month that the retirement becomes effective prior to July 1. Members who are employed and paid for less than the number of days required in their normal employment year shall be entitled to pro rata service credit for the fractional service. This credit shall be based upon the number of days employed and the number of days in the member's annual employment agreement or normal employment year. Service credit may not exceed the ratio between the school or fiscal year and the number of months or fraction of a month the member is employed during that year.
- (d) ***Notwithstanding paragraph (c) of this subsection, a noncertified employee of a school board who retires between July 1, 2000, and August 1, 2001, may choose to have service earned between July 1, 2000, and August 1, 2001, credited as described in paragraph (b) of this subsection.***
- (2) Employee contributions shall not be deducted from the creditable compensation of any employee or picked up by the employer while he is seasonal, emergency, temporary, or part-time. No service credit shall be earned.
- (3) Contributions shall not be made or picked up by the employer and no service credit shall be earned by a member while on leave except:
 - (a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and
 - (b) A member on educational leave who meets the criteria established by the state Personnel Cabinet for approved educational leave, who is receiving seventy-five percent (75%) or more of full salary, shall

receive service credit and shall pay member contributions in accordance with KRS 78.610, and his employer shall pay employer contributions or the contributions shall be picked up in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded.

- (4) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made to the retirement system and any interest credited in accordance with KRS 78.640.

Approved March 20, 2001

CHAPTER 152

(HB 304)

AN ACT relating to cities.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Brodhead, in Rockcastle County, is such as to justify its being classified as a city of the fifth class;

NOW, THEREFORE,

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

Section 1. The City of Brodhead, in Rockcastle County, is transferred from the sixth to the fifth class of cities.

Section 2. KRS 81A.530 is amended to read as follows:

- (1) When a city of the third, fourth, or fifth class and a city of the sixth class have a common boundary, and it is determined by the legislative body of the city of the sixth class and of the adjoining city of the third, fourth, or fifth class that the entire area of the city of the sixth class can be better served by the adjoining city, the entire area of the city of the sixth class may be annexed to the adjoining city and the city of the sixth class dissolved after the enactment of identical ordinances by each legislative body according to the provisions of this section.
- (2) The ordinances declaring the annexation of the city of the sixth class by the adjoining city shall include, but not be limited to, the following:
 - (a) A statement of the financial consideration, if any, between the two (2) cities regarding the area of the city of the sixth class and the terms of any financial arrangements;
 - (b) The resolution of any taxes or revenues from the area of the city of the sixth class;
 - (c) A statement of the land use or the zoning regulations that would be applicable to the area of the city of the sixth class if planning and zoning is in effect pursuant to KRS Chapter 100 in either city; and
 - (d) The date that the annexation of the city of the sixth class by the adjoining city would be effective, which shall not be more than one (1) year after the date on which the last of the identical ordinances is adopted.
- (3) In order for the annexation to be completed, either of the following procedures shall be followed and concluded:
 - (a) Prior to the effective date of the annexation of the area of the city of the sixth class into the adjoining city, a petition in support of the annexation, containing a number of signatures of residents in the area of the city of the sixth class that is not less than fifty-one percent (51%) of the number of registered voters in the area of the city of the sixth class, shall be submitted to the county clerk of the county in which the city of the sixth class is located. The county clerk shall within ten (10) working days of receipt of the petition notify each city of the validity of each signature and address on the petition; or
 - (b) An election shall be held to determine the desire of the voters in the city of the sixth class. An election shall be held at a regular election~~], or an election may be held at a primary election if an ordinance or municipal order of the legislative body of the city of the sixth class desiring annexation has been filed with the county clerk not later than the second Tuesday in August preceding the primary election].~~ The qualifications of voters and all other matters in regard to the election shall be governed by the general election laws. The question shall be submitted in substantially the following form: "Are you in favor of annexing the city of into the city of and dissolving the city of? Yes..... No.....".

- (4) If the requisite number of signatures is verified by the county clerk as provided in subsection (3)(a) of this section, or if a majority of the legal votes cast at the election in the city of the sixth class proposing to be annexed favors the annexation, the annexation shall proceed and become effective, and the city of the sixth class shall be dissolved at the date provided in the identical ordinances adopted by the legislative bodies of the city of the sixth class and of the adjoining city upon the enactment by the legislative body of the adjoining city of an ordinance accepting the annexation of the city of the sixth class.
- (5) All assets of the city of the sixth class existing on the date of annexation shall become the property of the annexing city. Any indebtedness for which the city of the sixth class is liable on the date of annexation shall be assumed by the annexing city, so that after annexation the burden of taxation shall be uniform throughout the area of the two (2) cities.
- (6) The enactment of ordinances by each city shall be pursuant to KRS 83A.060.
- (7) The authority for the annexation of the city of the sixth class shall be exclusive of the provisions of KRS 81A.440.
- (8) In addition to other public notice requirements, the annexing city shall comply with the provisions of KRS 81A.470, but shall not be required to comply with the provisions of KRS 81A.475. The city clerk of the city of the sixth class shall, within sixty (60) days after the effective date of the dissolution of the city of the sixth class, give written notice of the dissolution and the date of the dissolution to the Secretary of State who shall properly index and file the notice and date as a permanent record in the secretary's office.
- (9) The area of the city of the sixth class being annexed shall assume the local option status of the city by which it is being annexed.

Approved March 20, 2001

CHAPTER 153

(HB 325)

AN ACT relating to economic development and declaring an emergency.

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

Section 1. KRS 154.26-010 is amended to read as follows:

As used in KRS 154.26-015 to 154.26-100, unless the context clearly indicates otherwise:

- (1) "Agreement" means a revitalization agreement entered into, pursuant to KRS 154.26-090, on behalf of the authority and an approved company with respect to an economic revitalization project;
- (2) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;
- (3) "Appropriation agreement" means an agreement entered into, pursuant to KRS 154.26-090(1)(d)2.b., among the approved company, the authority, and local governmental entities with respect to appropriations by these local governmental entities for the benefit of the approved company;
- (4) "Approved company" means any eligible company approved by the authority pursuant to KRS 154.26-080 requiring an economic revitalization project;
- (5) "Approved costs" means:
 - (a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;
 - (b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;

- (c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;
- (d) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;
- (e) All costs required for the installation of utilities, including, but not limited to, water, sewer, sewer treatment, gas, electricity, communications, and railroads, and including off-site construction of the facilities paid for by the approved company; and
- (f) All other costs comparable with those described above;
- (6) "Assessment" means the job revitalization assessment fee authorized by KRS 154.26-100;
- (7) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;
- (8) "Commonwealth" means the Commonwealth of Kentucky;
- (9) "Economic revitalization project" or "project" means the acquisition, construction, equipping, and rehabilitation of machinery and equipment, constituting fixtures or otherwise, and with respect thereto, the construction, rehabilitation, and installation of improvements of facilities necessary or desirable for the acquisition, construction, installation, and rehabilitation of the machinery and equipment, including surveys; installation of utilities, including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are utilized to improve the economic situation of the approved company to allow the approved company to remain in operation and retain or create jobs;
- (10) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity:
 - (a) Employing or intending to employ full-time a minimum of twenty-five (25) persons engaged in manufacturing or agribusiness operations at the same facility, whether owned or leased, located and operating within the Commonwealth on a permanent basis for a reasonable period of time preceding the request for approval by the authority of an economic revitalization project, including facilities where manufacturing or agribusiness operations has been temporarily suspended and which meets the standards promulgated by the authority pursuant to KRS 154.26-080; *or*
 - (b) ***Having a base contract for annual delivery of at least four (4) million tons of coal mined within the Commonwealth and employing a minimum of five hundred (500) persons engaged in coal mining and processing operations at facilities, whether owned or leased, located and operating within the Commonwealth on a permanent basis for a reasonable period of time preceding the request for approval by the authority of an economic revitalization project, including facilities on or adjacent to where coal mining and processing operations have been temporarily suspended or severely reduced, and which meets the standards promulgated by the authority under KRS 154.26-080;***
- (11) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;
- (12) "Inducements" means the Kentucky tax credit and the job revitalization assessment fee as prescribed in KRS 154.26-090 and 154.26-100;
- (13) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing that results in a change in the condition of the property and any related activity or function, together with the storage, warehousing, distribution, and related office facilities;
- (14) ***"Coal mining and processing" means activities resulting in the eligible company being subject to the tax imposed by KRS Chapter 143;***
- (15) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter; and
- ~~(16)~~~~(15)~~ "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.010, or any board, commission, institution, or division exercising any function of the state which is not an independent municipal corporation or political subdivision.

Section 2. KRS 154.26-080 is amended to read as follows:

- (1) The authority shall establish standards for the determination and approval of eligible companies and their projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.
- (2) The criteria for approval of eligible companies and economic revitalization projects shall include but not be limited to the need for the project; the new capital investment in the project that will result in financial stability for the manufacturing *or coal mining and processing* facility; and the retention or expansion of the greatest number of employees at the manufacturing *or coal mining and processing* facility.
- (3) With respect to each eligible company making an application to the authority for inducements, and with respect to the project described in the application, the authority shall make inquiries and request materials of the applicant, including, but not limited to, written evidence that except for a substantial investment in the project, assisted by the inducements authorized by KRS 154.26-015 to 154.26-100, the eligible company will close its manufacturing *or coal mining and processing* facility, permanently lay off its employees, and cease operations.
- (4) The eligible company shall, in a manner acceptable to the authority, detail the condition of the facility, including, but not limited to, financial, efficiency, and productivity matters; explain in detail why the company intends to close the facility; and set out alternatives that are available to the company.
- (5) *As a part of its application, an eligible company as described in subsection (10)(b) of Section 1 of this Act may request an emergency declaration based upon the urgency of the request and its impact on the local or regional economy.*
- (6) *A request for an emergency declaration shall be reviewed by the secretary of the Cabinet for Economic Development, the secretary of the Cabinet for Workforce Development, and the secretary of the Finance and Administration Cabinet and their findings in connection with the emergency declaration shall be delivered to the authority.*
- (7) *If the emergency declaration is granted in accordance with subsection (6) of this section, the eligible company shall not be subject to the requirements contained in subsection (8), subsection (9), subsection (11).*
- (8) In accordance with, and after the adoption of a resolution under subsection ~~(10)~~~~(7)~~ of this section, the authority shall engage the services of a competent consulting firm or technical resource to analyze the data made available by the company, and to collect and analyze additional information necessary to determine that, in the independent judgment of the consultant, the company will close the facility absent a substantial investment in the project, assisted by the inducements authorized by KRS 154.26-015 to 154.26-100. The company shall pay the cost of this evaluation.
- ~~(9)~~~~(6)~~ The company shall cooperate with the consultant and provide all of the data which could reasonably be required by the consultant to make a fair assessment of the company's intentions to close the facility.
- ~~(10)~~~~(7)~~ After a review of relevant materials and completion of inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily-approved company and authorizing the undertaking of the economic revitalization project.
- ~~(11)~~~~(8)~~ The authority shall review the report of the consultant and other information which has been made available to it in order to assist the authority in determining whether the company intends to close the facility for valid reasons. The authority shall determine the potential of the proposed revitalization project to make the facility stable, productive, and competitive in its market.
- ~~(12)~~~~(9)~~ After the review of the consultant's report *or if an emergency declaration has been issued in accordance with subsection (6) of this section*, the authority shall hold a public hearing to solicit public comment from any person, group, or interested party regarding the proposed project.
- ~~(13)~~~~(10)~~ After the public hearing, the authority, by resolution, may declare the jobs then existing at the facility to be lost; may give its final approval to the eligible company's application for a project; and may grant to the eligible company the status of an approved company. The decision reached by the authority shall be final and no appeal shall be granted.

~~(14)(11)~~ All meetings of the authority shall be held in accordance with KRS 61.805 to 61.850. The authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

Section 3. Whereas the ability to invoke emergency measures is critical to the preservation and creation of jobs within the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Approved March 20, 2001

CHAPTER 154

(HB 347)

AN ACT relating to architectural firms.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"Employ" means to hire, retain, or otherwise contract with an individual or entity for goods or services;*
- (b) *"Local government" means a city, county, charter county government, urban-county government, consolidated local government, or a special district;*
- (c) *"Construction manager" means a person who coordinates and communicates the entire project process, clarifying cost and time consequences of design decisions as well as clarifying construction feasibility, and who manages the bidding, awarding, and construction phases of the project; and*
- (d) *"Design-build" means a system of contracting under which one (1) entity performs both architecture/engineering and construction under one (1) single contract.*

(2) *A local government shall not employ the same entity to provide both architectural services and construction management services on the same capital construction project. No local government shall knowingly employ an officer, employee, or agent of, or an immediate family member of an officer, employee, or agent of:*

- (a) *The architectural firm that provided the architectural services to also provide construction management services for the same capital construction project for which the architectural firm provided architectural services; or*
- (b) *The construction management firm that provided the construction management services to also provide architectural services for the same capital construction project for which the construction management firm provided construction management services.*

(3) *A violation of subsection (2) of this section shall suspend the local government from receiving any financial assistance from the state, or any state agency, with respect to the project for which the architectural or construction management firm was employed until the matter is resolved.*

(4) *Nothing in this section shall prohibit a local government from using design-build as a method of providing for capital construction services.*

Approved March 20, 2001

CHAPTER 155

(HB 356)

AN ACT relating to revenue and taxation.

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

Section 1. KRS 138.870 is amended to read as follows:

As used in KRS 138.870 to 138.889, unless the context requires otherwise:

- (1) "Marijuana" means marijuana, whether real or counterfeit, as defined in KRS 218A.010.
- (2) "Controlled substance" means any controlled substance, whether real or counterfeit, as defined in KRS 218A.010 or any regulation promulgated thereunder, except that it shall not include marijuana.
- (3) "~~Offender~~~~Dealer~~" means a person who engages in this state in a taxable activity as defined in subsection (4) of this section.
- (4) "Taxable activity" means producing, cultivating, manufacturing, importing, transporting, distributing, acquiring, purchasing, storing, selling, using, or otherwise possessing, *in violation of KRS Chapter 218A*, more than five (5) marijuana plants with foliage, 42.5 grams of marijuana which has been detached from the plant on which it grew, seven (7) grams of any controlled substance, or fifty (50) or more dosage units of any controlled substance which is not sold by weight. The weight or dosage units in this subsection shall include the weight of marijuana or the weight or dosage units of the controlled substance, whether pure, impure, or diluted. A quantity of a controlled substance is diluted if it consists of a detectable quantity of a pure controlled substance and any excipients or fillers.
- (5) "Dosage unit" means a tablet, capsule, vial, or ampule of a controlled substance or, in cases of mass volume or diluted quantities, the proper dose or quantity of a controlled substance to be taken all at one (1) time or in fractional amounts within a given period, as defined and adopted by the United States Pharmacopeia.
- (6) "Possessing" includes either actual possession or constructive possession, or a combination of both actual and constructive possession. Mere possession or ownership of real estate or an interest therein does not establish constructive possession.

Section 2. KRS 138.872 is amended to read as follows:

- (1) A tax is hereby levied on each ~~offender~~~~dealer~~ engaging in a taxable activity in this state. The tax shall be paid at the following rates:
 - (a) One thousand dollars (\$1,000) per plant, whether growing or detached from the soil, on each marijuana plant with foliage;
 - (b) Three dollars and fifty cents (\$3.50) on each gram, or portion thereof, of marijuana which has been detached from the plant on which it grew;
 - (c) Two hundred dollars (\$200) on each gram, or portion thereof, of controlled substances; and
 - (d) Two thousand dollars (\$2,000) on each fifty (50) dosage units, or portion thereof, of a controlled substance that is not sold by weight.
- (2) For the purpose of calculating the tax levied pursuant to subsections (1)(b), (1)(c), and (1)(d) of this section, the quantity shall be measured by the weight of the marijuana or controlled substance, whether pure, impure, or diluted, or by dosage units when a controlled substance is not sold by weight.
- (3) *An offender*~~A dealer~~ lawfully engaged in a taxable activity shall be exempt from the tax imposed by this section if the ~~offender~~~~dealer~~ is not in violation of any law which authorizes him to engage in the activity.

Section 3. KRS 138.874 is amended to read as follows:

- (1) Except as provided in KRS 138.870 to 138.889, no ~~offender~~~~dealer~~ shall engage in this state in a taxable activity unless the tax imposed pursuant to KRS 138.872 has been paid as evidenced by the affixing of a tax stamp, label, or other tax indicia to the marijuana or controlled substance as prescribed by the Revenue Cabinet. The tax shall be due and payable immediately upon the occurrence of the taxable activity in this state. If *an offender*~~a dealer~~ engages in a taxable activity in this state involving marijuana or a controlled substance on which a tax stamp, label, or other tax indicia evidencing payment of the tax imposed pursuant to KRS 138.872 has not already been affixed, the ~~offender~~~~dealer~~ shall immediately permanently affix the required tax stamp, label, or other tax indicia.
- (2) Tax stamps, labels, or other tax indicia required to be affixed to marijuana or controlled substances shall be purchased from the Revenue Cabinet. The purchaser shall pay one hundred percent (100%) of the face value for each tax stamp, label, or other tax indicia at the time of the purchase. The Revenue Cabinet shall maintain an inventory of tax stamps, labels, or other tax indicia in denominations it deems necessary to facilitate

compliance by taxpayers with the provisions of this section. No purchaser of tax stamps, labels, or other tax indicia pursuant to this section shall be required to give his name, address, or otherwise identify himself to the Revenue Cabinet.

- (3) Each tax stamp, label, or other tax indicia shall be used only once and shall expire one (1) year after issuance by the Revenue Cabinet to the original purchaser thereof.

Section 4. KRS 138.878 is amended to read as follows:

Nothing in KRS 138.870 to 138.889, including payment of the tax, shall in any manner provide immunity for *an offender*~~[a dealer]~~ from criminal prosecution pursuant to Kentucky law.

Section 5. KRS 138.880 is amended to read as follows:

- (1) Each *Commonwealth's attorney or county attorney*~~[law enforcement agency]~~ in this state *who obtains a conviction of, or a guilty or Alford plea*~~[which seizes]~~ from, *an offender for violating KRS Chapter 218A*~~[a dealer]~~~~more than five (5) marijuana plants with foliage, forty two and one half (42.5) grams of marijuana which has been detached from the plant on which it grew, seven (7) grams of any controlled substance, or fifty (50) or more dosage units of any controlled substance which is not sold by weight]~~ shall, within seventy-two (72) hours after the *conviction or the plea*~~[seizure]~~, notify the Revenue Cabinet in writing *if the offender has not paid*~~[of each seizure if]~~ the tax imposed by KRS 138.872~~[has not been paid]~~ as evidenced by the absence of the tax stamps, labels, or other official tax indicia required to be affixed to the marijuana or controlled substance *that was the subject of the conviction or plea*. The weight or dosage units prescribed in this subsection shall include the weight of the marijuana or the weight or dosage units of the controlled substance, whether pure, impure, or diluted. The notice required in this subsection shall be submitted in the manner prescribed by the Revenue Cabinet and shall include:
 - (a) The name, address, and Social Security number of the *offender*~~[dealer]~~ from whom the *conviction or plea*~~[seizure]~~ was *obtained*~~[made]~~;
 - (b) The type and quantity of the items *that were the subject of the conviction or plea*~~[seized]~~;
 - (c) Any information developed during the course of the investigation regarding any real or personal properties owned by the *offender*~~[dealer]~~ from whom the *conviction or plea*~~[seizure]~~ was *obtained*~~[made]~~; and
 - (d) Other information the Revenue Cabinet may require to facilitate the assessment and collection of the tax due pursuant to KRS 138.872.
- (2) To facilitate collection of the tax due pursuant to KRS 138.872, the *Commonwealth's attorney or county attorney*~~[law enforcement agency]~~ shall, as an authorized agent of the Revenue Cabinet, simultaneously file a copy of the notice required pursuant to subsection (1) of this section with:
 - (a) The county clerk of the county in which the *conviction or the guilty or Alford plea*~~[seizure]~~ was *entered*~~[made]~~;
 - (b) The county clerk of the county in which the *offender*~~[dealer from whom the seizure was made]~~ resides if different from the county in which the *conviction or plea*~~[seizure]~~ was *entered*~~[made]~~;
 - (c) The county clerk of any other county in which the *Commonwealth's attorney or county attorney*~~[police agency]~~ reasonably believes the *offender*~~[dealer]~~ from whom the *conviction or plea*~~[seizure]~~ was *obtained*~~[made]~~ owns real or personal property; and
 - (d) Each financial institution or other custodian the *Commonwealth's attorney or county attorney*~~[police agency]~~ reasonably believes possesses any funds, safe deposit box, or other assets owned in whole or in part by the *offender*~~[dealer]~~ from whom the *conviction or plea*~~[seizure]~~ was *obtained*~~[made]~~.
- (3) The notice required by subsection (2) of this section shall be a lien in favor of the Commonwealth pursuant to KRS 134.420 to secure payment of the tax, penalty, and interest due. The tax shall be and remain a lien upon the property, and all property subsequently acquired, and may be enforced as other liens on similar property are enforced. The lien may be released only upon written notice from the Revenue Cabinet that:
 - (a) The tax, penalty and interest due pursuant to KRS 138.872 and 138.889 have been paid;
 - (b) A bond has been given to the Revenue Cabinet as provided in KRS 131.150; or

(c) The tax, penalty, and interest are determined by the Revenue Cabinet not to be due.

- (4) The county clerk recording or releasing a state tax lien pursuant to this section shall be entitled to the fee prescribed therefor by KRS 64.012.
- (5) *Except as necessary to accept taxes that the offender voluntarily pays under KRS 138.874, the Revenue Cabinet shall not require a bond or otherwise attempt to collect the tax due under KRS 138.874 until the offender's taxable activity results in a conviction or a guilty or Alford plea for a violation of KRS Chapter 218A. However, the Revenue Cabinet may impose a notice of lien on issuance of a warrant or indictment, which shall be released upon acquittal or dismissal of the case.*

Section 6. KRS 138.882 is amended to read as follows:

- ~~(1) The assessment provisions of KRS 131.150 shall apply with regard to any dealer who fails to comply with requirements for affixing official tax stamps, labels, or other tax indicia evidencing payment of the tax imposed pursuant to KRS 138.872.~~
- ~~(2)~~ The tax, penalty, and interest assessed by the Revenue Cabinet pursuant to KRS 138.872 and 138.889 shall be deemed prima facie valid and correctly determined and assessed. The burden shall be upon the taxpayer in any judicial or administrative proceeding in this state to show their incorrectness or invalidity.
- ~~(2)(3)~~ The collection provisions of KRS 131.500, and any other remedy provided by the laws of the Commonwealth for collection of a tax administered by the Revenue Cabinet, shall apply with respect to the collection of the tax, penalty, and interest imposed by KRS 138.872 and 138.889, but it shall not be necessary for the Revenue Cabinet to await the expiration of the times specified in KRS 131.500 to levy upon and sell any property or rights to property found within the Commonwealth belonging to the *offender*~~dealer~~ failing to pay the tax, penalty, or interest due pursuant to KRS 138.872 and 138.889.
- ~~(3)(4)~~ No person shall bring an action in any court to restrain or delay the assessment or collection of any tax, penalty, or interest imposed by KRS 138.872 and 138.889.
- ~~(5) The suppression of evidence on any grounds by a court in a criminal case involving an activity taxable under KRS 138.870 to 138.889, or the dismissal of criminal charges in such a case shall not affect any assessment made pursuant to KRS 138.872 and 138.889.~~
- ~~(4)(6)~~ Notwithstanding any provision of KRS 138.870 to 138.889, or any other provision of law, collection of any tax, penalty, or interest under KRS 138.872 and 138.889 or imposition of any revenue liens arising as a result of KRS 138.880 shall not interfere with any forfeiture of money or any other type or kind of property under the drug forfeiture laws of this state, or with any distribution of property or funds under the drug forfeiture laws of this state. Regardless of the order in which proceedings are begun, forfeiture of money or any other type or kind of property and distribution of property and funds under the drug forfeiture laws of this state shall take precedence over any proceedings to collect the tax, penalty, or interest due pursuant to KRS 138.872 and 138.889.

Section 7. KRS 138.884 is amended to read as follows:

For the purpose of determining the correctness of any return; determining the amount of tax that should have been paid; determining whether or not the *offender*~~dealer~~ should have made a return or paid tax; or collecting any tax, penalty, or interest under KRS 138.872 and 138.889, the Revenue Cabinet may examine, or cause to be examined, any books, papers, records, or memoranda that may be relevant to making any determinations, whether the books, papers, records, or memoranda are the property of or in the possession of the *offender*~~dealer~~ or another person. The Revenue Cabinet may require the attendance of any person having knowledge or information that may be relevant; compel the production of books, papers, records, or memoranda by persons required to attend; take testimony on matters material to the determination; and administer oaths or affirmations. The Revenue Cabinet may issue subpoenas which may be served by authorized agents of the Revenue Cabinet to compel the attendance of witnesses or the production of documents, books, papers, records, bank records, and any other writing or memoranda.

Section 8. KRS 138.886 is amended to read as follows:

- (1) The provisions of KRS 138.870 to 138.889 shall not inculcate any person or otherwise cause any person to incriminate himself in violation of his constitutional rights and, notwithstanding the exceptions provided in KRS 131.190 or any other law, neither the Revenue Cabinet nor any public employee may reveal facts contained in any report required by KRS 138.870 to 138.889, nor shall any information contained in any report

filed pursuant to KRS 138.870 to 138.889 be used against *an offender*~~[a dealer]~~ in any criminal proceeding, except in connection with a proceeding involving the tax, penalty, or interest due under KRS 138.872 and 138.889, unless the information is independently obtained. Further, possession of any tax stamp, label, or other tax indicia evidencing payment of tax pursuant to KRS 138.874 shall not be used against any person in any criminal proceeding.

- (2) Any person violating this section shall be guilty of a Class B misdemeanor.
- (3) This section shall not prohibit the Revenue Cabinet from publishing statistics that do not disclose the identity of *offenders*~~[dealers]~~ or the contents of particular returns or reports.

Section 9. KRS 138.889 is amended to read as follows:

- (1) Any *offender*~~[dealer]~~ violating KRS 138.870 to 138.889 shall, in addition to paying the tax imposed pursuant to KRS 138.872, pay a penalty equal to one hundred percent (100%) of the tax due and interest at the tax interest rate as defined in KRS 131.010(6) on the principal amount of the tax during the period in which the tax is due and unpaid.
- (2) (a) Any *offender*~~[dealer]~~ failing to affix the appropriate tax stamps, labels, or other tax indicia to any marijuana or controlled substance as required by KRS 138.874 is guilty of a Class C felony and, upon conviction, may be punished as provided in the Kentucky Penal Code. The penalty shall be cumulative to any other penalty or crime. Jurisdiction and venue for prosecution of this crime shall be in the Franklin Circuit Court.
- (b) Notwithstanding any other provision of the criminal laws of this state, an indictment may be found and filed upon any criminal offense specified in this section within six (6) years after the commission of the offense.

Approved March 20, 2001

CHAPTER 156

(HJR 30)

A JOINT RESOLUTION authorizing the creation of the Subcommittee on Tax Policy Issues of the Appropriations and Revenue Committee.

WHEREAS, a fair and equitable tax structure is important to the economic viability of a state; and

WHEREAS, there are many inadequacies in Kentucky's taxing structure, including the way the working poor, prescription drugs, telecommunications, and motor vehicles are taxed; and

WHEREAS, most of Kentucky's current taxing structure was developed on a piecemeal basis; and

WHEREAS, an important element of tax policy is the competitive position relative to other states; and

WHEREAS, there is a need to analyze Kentucky's tax structure, compared to our neighbors and competitors, and make appropriate adjustments; and

WHEREAS, Kentucky has moved into a new economy and it is important to have a tax system that is reflective of a knowledge-based economy; and

WHEREAS, the need has arisen to conduct a comprehensive examination of the Commonwealth's tax structure and recommend changes to the tax code system which will meet the long-term needs of the state and its citizens;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. There is created the Tax Policy Issues Subcommittee of the Appropriations and Revenue Committee to study tax policy issues. The subcommittee shall consist of sixteen members as follows:

- (1) Eight members from the House Appropriations and Revenue Committee, who shall reflect the parties' proportional representation on the House Appropriations and Revenue Committee, recommended by the Chair of House Appropriations and Revenue Committee and approved by the Speaker of the House; and

(2) Eight members from the Senate Appropriations and Revenue Committee, who shall reflect the parties' proportional representation on the Senate Appropriations and Revenue Committee, recommended by the Chair of Senate Appropriations and Revenue Committee and approved by the President of the Senate.

Section 2. The House and Senate Chair of the Appropriations and Revenue Committee shall serve as co-chairs of the subcommittee.

Section 3. The subcommittee is authorized to meet on the regular meeting date for the Interim Joint Committee on Appropriations and Revenue according to the most recent interim meeting calendar approved by a majority of the Legislative Research Commission. The first meeting shall be no later than May 1, 2001.

Section 4. The Governor is requested through designees to make recommendations to the subcommittee for consideration by the subcommittee. The Governor shall designate executive branch employees with expertise in the various areas to be studied by the subcommittee to present data, research, and testimony to the subcommittee. The subcommittee may employ consultants if approved by the Legislative Research Commission.

Section 5. The subcommittee shall report its findings to the Interim Joint Committee on Appropriations and Revenue prior to the start of the 2002 Regular Session. The subcommittee shall cease to exist April 15, 2002.

Approved March 20, 2001

CHAPTER 157

(SB 68)

AN ACT changing the classification of the City of New Castle in Henry County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of New Castle, in Henry County, is such as to justify its being classified as a city of the fifth class;

NOW THEREFORE,

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

Section 1. The City of New Castle, in Henry County, is transferred from the sixth to the fifth class of cities.

Approved March 20, 2001

CHAPTER 158

(SB 76)

AN ACT relating to racial profiling.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

- (1) *No state law enforcement agency or official shall stop, detain, or search any person when such action is solely motivated by consideration of race, color, or ethnicity, and the action would constitute a violation of the civil rights of the person.*
- (2) *The secretary of the Justice Cabinet, in consultation with the Kentucky Law Enforcement Council, the Attorney General, the Office of Criminal Justice Training, the secretary of the Transportation Cabinet, the Kentucky State Police, the secretary of the Natural Resources and Environmental Protection Cabinet, and the secretary of the Public Protection and Regulation Cabinet, shall design and implement a model policy to prohibit racial profiling by state law enforcement agencies and officials.*
- (3) *The Kentucky Law Enforcement Council shall disseminate the established model policy against racial profiling to all sheriffs and local law enforcement officials, including local police departments, city councils, and fiscal courts. All local law enforcement agencies and sheriffs' departments are urged to implement a written policy against racial profiling or adopt the model policy against racial profiling as established by the secretary of the Justice Cabinet within one hundred eighty (180) days of dissemination of*

the model policy. A copy of any implemented or adopted policy against racial profiling shall be filed with the Kentucky Law Enforcement Council and the Kentucky Law Enforcement Foundation Program Fund.

- (4) (a) *Each local law enforcement agency that participates in the Kentucky Law Enforcement Foundation Program fund under KRS 15.420 in the Commonwealth shall implement a policy, banning the practice of racial profiling, that meets or exceeds the requirements of the model policy disseminated under subsection (3) of this section. The local law enforcement agency's policy shall be submitted by the local law enforcement agency to the secretary of the Justice Cabinet within one hundred eighty (180) days of dissemination of the model policy by the Kentucky Law Enforcement Council under subsection (3) of this section. If the local law enforcement agency fails to submit its policy within one hundred eighty (180) days of dissemination of the model policy, or the secretary rejects a policy submitted within the one hundred and eighty (180) days, that agency shall not receive Kentucky Law Enforcement Foundation Program funding until the secretary approves a policy submitted by the agency.*
- (b) *If the secretary of the Justice Cabinet approves a local law enforcement agency's policy, the agency shall not change its policy without obtaining approval of the new policy from the secretary of the Justice Cabinet. If the agency changes its policy without obtaining the secretary's approval, the agency shall not receive Kentucky Law Enforcement Foundation Program funding until the secretary approves a policy submitted by the agency.*
- (5) *Each local law enforcement agency shall adopt an administrative action for officers found not in compliance with the agency's policy. The administrative action shall be in accordance with other penalties enforced by the agency's administration for similar officer misconduct.*

Approved March 20, 2001

CHAPTER 159

(SB 155)

AN ACT relating to motor carrier safety.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section:*
 - (a) *"Lights" means the lighting devices required on commercial vehicles having a declared gross weight in excess of ten thousand (10,000) pounds in accordance with 49 C.F.R. Part 393 and 49 C.F.R. Part 571; and*
 - (b) *"Reflectors" means the reflex reflectors and retroflective sheeting required on commercial vehicles having a declared gross weight in excess of ten thousand (10,000) pounds in accordance with 49 C.F.R. Part 393.*
- (2) *A person shall not operate a commercial motor vehicle if the lights or reflectors are inoperable, missing, or are obscured by dirt, mud, or other debris.*
- (3) *Law enforcement officers and the Transportation Cabinet shall enforce violations of this section.*

Section 2. KRS 281.990 is amended to read as follows:

- (1) *Except as provided in subsection (5) of this section, a person shall be fined not less than twenty-five dollars (\$25) and no more than two hundred dollars (\$200), if the person:*
 - (a) *Violates, causes, aids, or abets any violation of the provisions of this chapter, or any order, rule, or administrative regulation lawfully issued pursuant to authority granted by this chapter;*
 - (b) *Knowingly makes any false or erroneous statement, report, or representation to the Department of Vehicle Regulation with respect to any matter placed under the jurisdiction of the department by this chapter;*
 - (c) *Knowingly makes any false entry in the accounts or records required to be kept pursuant to the authority granted by this chapter; or*

- (d) Knowingly fails to keep, or knowingly destroys or mutilates, any accounts or records.

Every device to evade or to prevent the application of any provision of this chapter, or any lawful order, rule or administrative regulation of the department issued pursuant thereto, shall constitute a violation thereof.

- (2) (a) Any person who violates KRS 281.615(1) shall be fined not less than two thousand dollars (\$2,000) nor more than three thousand five hundred dollars (\$3,500).
- (b) Any person who operates as a motor carrier in violation of the terms of his or her certificate or permit shall be fined not less than two thousand dollars (\$2,000) nor more than three thousand five hundred dollars (\$3,500).
- (3) In addition to the penalties prescribed in subsection (1) of this section, in case of violation by any person in whose name an industrial bus is licensed, the person shall forfeit all certificates and permits held by him, and shall not be eligible to hold any certificate or permit for a period of five (5) years thereafter.
- (4) A person who violates KRS 281.615(2) shall not be subject to a penalty under this section.
- (5) (a) *Except as provided in this subsection, any person who violates Section 1 of this Act shall be fined two hundred fifty dollars (\$250) for each offense.*
- (b) *A person who is cited for a violation of Section 1 of this Act in which the lights were inoperable or the reflectors were missing may, within thirty (30) days from the date of the citation, provide proof to the county attorney of the county in which the offense occurred that the mechanical problem has been repaired and that the lights are in working order or that the required reflectors have been placed on the vehicle. If such proof is shown, the citation shall be dismissed.*
- (c) *A law enforcement officer and the Transportation Cabinet shall not issue a citation to a person as violating Section 1 of this Act if the atmospheric conditions all motorists were subjected to at the time the person is stopped reasonably limit the ability of a person to keep the vehicle's lights or reflectors from being obscured by dirt, mud, or debris.*

Approved March 20, 2001

CHAPTER 160

(SB 5)

AN ACT relating to state emblems.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The Appalachian dulcimer is named and designated as the official musical instrument of Kentucky.

Approved March 20, 2001

CHAPTER 161

(HB 123)

AN ACT relating to the welfare of children and declaring an emergency.

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

Section 1. KRS 403.213 is amended to read as follows:

- (1) The Kentucky child support guidelines may be used by the parent, custodian, or agency substantially contributing to the support of the child as the basis for periodic updates of child support obligations and for modification of child support orders for health care. The provisions of any decree respecting child support may be modified only as to installments accruing subsequent to the filing of the motion for modification and only upon a showing of a material change in circumstances that is substantial and continuing.

- (2) Application of the Kentucky child support guidelines to the circumstances of the parties at the time of the filing of a motion or petition for modification of the child support order which results in equal to or greater than a fifteen percent (15%) change in the amount of support due per month shall be rebuttably presumed to be a material change in circumstances. Application which results in less than a fifteen percent (15%) change in the amount of support due per month shall be rebuttably presumed not to be a material change in circumstances. For the one (1) year period immediately following enactment of this statute, the presumption of material change shall be a twenty-five percent (25%) change in the amount of child support due rather than the fifteen percent (15%) stated above.
- (3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child shall be terminated by emancipation of the child unless the child is a high school student when he reaches the age of eighteen (18). In cases where the child becomes emancipated because of age, but not due to marriage, while still a high school student, the court-ordered support shall continue while the child is a high school student, but not beyond completion of the school year during which the child reaches the age of nineteen (19) years. Provisions for the support of the child shall not be terminated by the death of a parent obligated to support the child. If a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate in the circumstances. Emancipation of the child shall not terminate the obligation of child support arrearages that accrued while the child was an unemancipated minor.
- (4) The child support guidelines table shall be reviewed at least once every four (4) years by a commission consisting of the following persons:
 - (a) The secretary of the Cabinet for Families and Children or a supervisory staff person designated by him;
 - (b) Two (2) members of the Kentucky Bar Association who have at least six (6) consecutive years' experience and are presently practicing domestic relations cases, one (1) member from a metropolitan or large urban area and one (1) member from a less populated area;
 - (c) Two (2) Circuit Judges appointed by the Chief Justice of the Kentucky Supreme Court, one (1) from a metropolitan or large urban area, and one (1) from a less populated area;
 - (d) One (1) District Judge appointed by the Chief Justice of the Kentucky Supreme Court;
 - (e) Two (2) county attorneys appointed by the president of the County Attorneys Association, one (1) from a metropolitan or large urban area and one (1) from a less populated area;~~and~~
 - (f) The Attorney General or his designee, who shall be an attorney from his office;
 - (g) ***One (1) person who is a custodial parent;***
 - (h) ***One (1) person who is a noncustodial parent;***
 - (i) ***One (1) person who is a parent with split custody; and***
 - (j) ***One (1) child advocate.***

The members designated in paragraphs (g) to (j) of this subsection shall be appointed by the Governor from a list of three (3) names for each category submitted by the Cabinet for Families and Children. If the status of one (1) of these members changes, the member shall be replaced through appointment by the Governor from a list of three (3) names submitted by the cabinet.

- (5) The commission shall make a recommendation to the Kentucky General Assembly to ensure that the child support guidelines table results in a determination of appropriate child support amounts.

Section 2. KRS 403.340 is amended to read as follows:

- (1) ***As used in this section, "custody" means sole or joint custody, whether ordered by a court or agreed to by the parties.***
- (2) No motion to modify a custody decree shall be made earlier than two (2) years after its date, unless the court permits it to be made on the basis of affidavits that there is reason to believe that:
 - (a) The child's present environment may endanger seriously his physical, mental, moral, or emotional health; or
 - (b) The custodian appointed under the prior decree has placed the child with a de facto custodian.

~~(3)(2)~~ If a court of this state has jurisdiction pursuant to the Uniform Child Custody Jurisdiction Act, the court shall not modify a prior custody decree unless *after hearing* it finds, upon the basis of facts that have arisen since the prior decree or that were unknown to the court at the time of entry of the prior decree, that a change has occurred in the circumstances of the child or his custodian, and that the modification is necessary to serve the best interests of the child. *When determining if a change has occurred and whether a modification of custody is in the best interests of the child, the court shall consider the following* ~~[In applying these standards, the court shall retain the custodian appointed pursuant to the prior decree unless]:~~

- (a) *Whether* the custodian agrees to the modification;
- (b) *Whether* the child has been integrated into the family of the petitioner with consent of the custodian;~~or~~
- (c) *The factors set forth in KRS 403.270(2) to determine the best interests of the child;*
- (d) *Whether* the child's present environment endangers seriously his physical, mental, moral, or emotional health;~~and~~
- (e) *Whether* the harm likely to be caused by a change of environment is outweighed by its advantages to him~~;~~; ~~and~~~~or~~
- ~~(f)(d)~~ *Whether* the custodian has placed the child with a de facto custodian.

~~(4)(3)~~ In determining whether a child's present environment may endanger seriously his physical, mental, moral, or emotional health, the court shall consider all relevant factors, including, but not limited to:

- (a) The interaction and interrelationship of the child with his parent or parents, his de facto custodian, his siblings, and any other person who may significantly affect the child's best interests;
- (b) The mental and physical health of all individuals involved;
- (c) Repeated or substantial failure, without good cause as specified in KRS 403.240, of either parent to observe visitation, child support, or other provisions of the decree which affect the child, except that modification of custody orders shall not be made solely on the basis of failure to comply with visitation or child support provisions, or on the basis of which parent is more likely to allow visitation or pay child support;
- (d) If domestic violence and abuse, as defined in KRS 403.720, is found by the court to exist, the extent to which the domestic violence and abuse has affected the child and the child's relationship to both parents.

~~(5)(4)~~ Attorney fees and costs shall be assessed against a party seeking modification if the court finds that the modification action is vexatious and constitutes harassment.

Section 3. Whereas the welfare of Kentucky's children is threatened by child support and child custody arrangements that do not serve their best interests, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved March 21, 2001

CHAPTER 162

(HB 101)

AN ACT relating to the dismissal of volunteer firefighters.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

- (1) *No employer shall terminate an employee who is a volunteer firefighter because that employee, when acting as a volunteer firefighter, is absent or late to the employee's employment in order to respond to an emergency prior to the time the employee is to report to his or her place of employment.*
- (2) *An employer may charge any time that an employee who is a volunteer firefighter loses from employment because of the employee's response to an emergency against the employee's regular pay.*

- (3) *An employer may request an employee who loses time from the employee's employment to respond to an emergency to provide the employer with a written statement from the chief of the volunteer fire department stating that the employee responded to an emergency and listing the time and date of the emergency.*
- (4) *Any employee that is terminated in violation of the provisions of this section may bring a civil action against his or her employer. The employee may seek reinstatement to the employee's former position, payment of back wages, reinstatement of fringe benefits, and reinstatement of seniority rights. In order to recover, the employee shall file this action within one (1) year of the date of the violation of this section.*

Approved March 22, 2001

CHAPTER 163

(SB 58)

AN ACT proposing an amendment to Section 112 of the Constitution of Kentucky, relating to family courts.

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

Section 1. It is proposed that Section 112 of the Constitution of Kentucky be amended to read as follows:

(1) Circuit Court shall be held in each county.

(2) The Circuit Court districts existing on the effective date of this amendment to the Constitution shall continue under the name "Judicial Circuits," the General Assembly having power upon certification of the necessity therefor by the Supreme Court to reduce, increase or rearrange the judicial districts. A judicial circuit composed of more than one county shall be as compact in form as possible and of contiguous counties. No county shall be divided in creating a judicial circuit.

(3) The number of circuit judges in each district existing on the effective date of this amendment shall continue, the General Assembly having power upon certification of the necessity therefor by the Supreme Court, to change the number of circuit judges in any judicial circuit.

(4) In a judicial circuit having only one judge, he shall be the chief judge. In judicial circuits having two or more judges, they shall select biennially a chief judge, and if they fail to do so within a reasonable time, the Supreme Court shall designate the chief judge. The chief judge shall exercise such authority and perform such duties in the administration of his judicial circuit as may be prescribed by the Supreme Court. The Supreme Court may provide by rules for administration of judicial circuits by regions designated by it.

(5) The Circuit Court shall have original jurisdiction of all justiciable causes not vested in some other court. It shall have such appellate jurisdiction as may be provided by law.

(6) The Supreme Court may designate one or more divisions of Circuit Court within a judicial circuit as a family court division. A Circuit Court division so designated shall retain the general jurisdiction of the Circuit Court and shall have additional jurisdiction as may be provided by the General Assembly.

Section 2. It is further proposed as a part of this amendment and as a transitional provision for the purposes of this amendment, that:

District judges elected for the term beginning on the first Monday in January of 2003, who possess the qualifications of a Circuit Judge and who are assigned by the Chief Justice to serve as family court judges on or before the commencement of the term, shall on that date become Circuit Judges with terms of office coinciding with the terms of Circuit Judges generally, and another numbered division or divisions of that judicial circuit shall be created. When a District Judge becomes a Circuit Judge pursuant to this provision, that District Judgeship shall be abolished and there shall be no vacancy to fill. The General Assembly, upon the ratification of this amendment, shall enact legislation to implement the provisions of this amendment in a manner consistent with the Supreme Court's adjustment of any Circuit Court division as a family court division.

Section 3. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

Governor's signature not required.

CHAPTER 164**(SB 82)**

AN ACT relating to state government.

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

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.

- (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
- (a) Department of Education.
 - (1) Kentucky Board of Education.
 - (2) Education Professional Standards Board.
 - (b) Department for Libraries and Archives.
 - (c) Kentucky Arts Council.
 - (d) Kentucky Educational Television.
 - (e) Kentucky Historical Society.
 - (f) Kentucky Teachers' Retirement System Board of Trustees.
 - (g) Kentucky Center for the Arts.
 - (h) Kentucky Craft Marketing Program.
 - (i) Kentucky Commission on the Deaf and Hard of Hearing.
 - (j) Governor's Scholars Program.
 - (k) Governor's School for the Arts.
 - (l) Operations and Development Office.
 - (m) Kentucky Heritage Council.
 - (n) Kentucky African-American Heritage Commission.
 - (o) Board of Directors for the Center for School Safety.
3. Natural Resources and Environmental Protection Cabinet:
- (a) Environmental Quality Commission.
 - (b) Kentucky Nature Preserves Commission.
 - (c) Department for Environmental Protection.
 - (d) Department for Natural Resources.
 - (e) Department for Surface Mining Reclamation and Enforcement.
 - (f) Office of Legal Services.
 - (g) Office of Information Services.
 - (h) Office of Inspector General.
4. Transportation Cabinet:
- (a) Department of Highways.
 - 1. Office of Program Planning and Management.
 - 2. Office of Project Development.
 - 3. Office of Construction and Operations.
 - 4. Office of Intermodal Programs.
 - 5. Highway District Offices One through Twelve.

- (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Fiscal Management.
 - (e) Department of Rural and Municipal Aid.
 - (f) Department of Human Resources Management.
 - (g) Office of the Secretary.
 - (h) Office of General Counsel and Legislative Affairs.
 - (i) Office of Public Affairs.
 - (j) Office of Transportation Delivery.
 - (k) Office of Minority Affairs.
 - (l) Office of Policy and Budget.
5. Cabinet for Economic Development:
- (a) Department of Administration and Support.
 - (b) Department for Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department of Community Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
- (a) Public Service Commission.
 - (b) Department of Insurance.
 - (c) Department of Housing, Buildings and Construction.
 - (d) Department of Financial Institutions.
 - (e) Department of Mines and Minerals.
 - (f) Department of Public Advocacy.
 - (g) Department of Alcoholic Beverage Control.
 - (h) Kentucky Racing Commission.
 - (i) Board of Claims.
 - (j) Crime Victims Compensation Board.
 - (k) Kentucky Board of Tax Appeals.
 - (l) Backside Improvement Commission.
 - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
 - (n) Department of Charitable Gaming.
7. Cabinet for Families and Children:
- (a) Department for Community Based Services.
 - (b) Department for Disability Determination Services.
 - (c) Public Assistance Appeals Board.
 - (d) Office of the Secretary.

- (1) Kentucky Commission on Community Volunteerism and Service.
 - (e) Office of the General Counsel.
 - (f) Office of Program Support.
 - (g) Office of Family Resource and Youth Services Centers.
 - (h) Office of Technology Services.
 - (i) Office of the Ombudsman.
 - (j) Office of Performance Enhancement.
8. Cabinet for Health Services.
- (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission on Children with Special Health Care Needs.
 - (e) Office of Certificate of Need.
 - (f) Office of the Secretary.
 - (g) Office of the General Counsel.
 - (h) Office of Program Support.
 - (i) Office of the Inspector General.
 - (j) Office of Aging Services.
9. Finance and Administration Cabinet:
- (a) Office of Legal and Legislative Services.
 - (b) Office of Management and Budget.
 - (c) Office of Financial Management.
 - (d) Office of the Controller.
 - (e) Department for Administration.
 - (f) Department of Facilities Management.
 - (g) State Property and Buildings Commission.
 - (h) Kentucky Pollution Abatement Authority.
 - (i) Kentucky Savings Bond Authority.
 - (j) Deferred Compensation Systems.
 - (k) Office of Equal Employment Opportunity Contract Compliance.
 - (l) Office of Capital Plaza Operations.
 - (m) County Officials Compensation Board.
 - (n) Kentucky Employees Retirement Systems.
 - (o) Commonwealth Credit Union.
 - (p) State Investment Commission.
 - (q) Kentucky Housing Corporation.
 - (r) Governmental Services Center.
 - (s) Kentucky Local Correctional Facilities Construction Authority.

- (t) Kentucky Turnpike Authority.
 - (u) Historic Properties Advisory Commission.
 - (v) ~~Kentucky Kare Health Insurance Authority.~~
 - (w) Kentucky Tobacco Settlement Trust Corporation.
10. Labor Cabinet:
- (a) Department of Workplace Standards.
 - (b) Department of Workers' Claims.
 - (c) Kentucky Labor-Management Advisory Council.
 - (d) Occupational Safety and Health Standards Board.
 - (e) Prevailing Wage Review Board.
 - (f) Workers' Compensation Board.
 - (g) Kentucky Employees Insurance Association.
 - (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.
 - (j) Kentucky Occupational Safety and Health Review Commission.
 - (k) Office of Administrative Services.
 - (l) Office of Labor-Management Relations and Mediation.
 - (m) Office of General Counsel.
 - (n) Workers' Compensation Funding Commission.
 - (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
 - (b) Department of Tax Administration.
 - (c) Office of Financial and Administrative Services.
 - (d) Department of Law.
 - (e) Department of Information Technology.
 - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
- (a) Department of Travel.
 - (b) Department of Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (d) Kentucky Horse Park Commission.
 - (e) State Fair Board.
 - (f) Office of Administrative Services.
 - (g) Office of General Counsel.
13. Cabinet for Workforce Development:
- (a) Department for Adult Education and Literacy.
 - (b) Department for Technical Education.

- (c) Department of Vocational Rehabilitation.
- (d) Department for the Blind.
- (e) Department for Employment Services.
- (f) State Board for Adult and Technical Education.
- (g) The State Board for Proprietary Education.
- (h) The Foundation for Adult Education.
- (i) Office of Training and Reemployment.
- (j) Office of General Counsel.
- (k) Office of Communication Services.
- (l) Office of Development and Industry Relations.
- (m) Office of Workforce Analysis and Research.
- (n) Office for Administrative Services.
- (o) Office for Policy and Budget.
- (p) Office of Personnel Services.
- (q) Unemployment Insurance Commission.

14. Personnel Cabinet:

- (a) Office of Administrative and Legal Services.
- (b) Department for Personnel Administration.
- (c) Department for Employee Relations.
- (d) Kentucky Public Employees Deferred Compensation Authority.
- (e) Kentucky Kare.
- (f) Division of Performance Management.
- (g) Division of Employee Records.
- (h) Division of Staffing Services.
- (i) Division of Classification and Compensation.
- (j) Division of Employee Benefits.
- (k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Council on Postsecondary Education.
- 3. Department for Local Government.
- 4. Kentucky Commission on Human Rights.
- 5. Kentucky Commission on Women.
- 6. Department of Veterans' Affairs.
- 7. Kentucky Commission on Military Affairs.
- 8. The Governor's Office for Technology.
- 9. Commission on Small Business Advocacy.

Section 2. KRS 18A.220 is amended to read as follows:

The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance under the provisions of KRS 18A.205 to 18A.225 ~~and KRS 42.800 to 42.825~~.

Section 3. KRS 42.0245 is amended to read as follows:

- (1) There is established within the Department for Administration in the Finance and Administration Cabinet the Division of Risk Management. The division shall be headed by a director who shall be appointed by the secretary of the Finance and Administration Cabinet subject to the approval of the Governor.
- (2) The Division of Risk Management shall:
 - (a) Oversee and assist the management of the state fire and tornado insurance fund established in KRS Chapter 56;
 - (b) Develop and manage programs of risk assessment and insurance for the protection of state property not covered by the state fire and tornado insurance fund;
 - (c) Advise the secretary of the Finance and Administration Cabinet on the fiscal management of programs relating to life insurance, workers' compensation, and health care benefits for state employees ~~including, but not limited to, assisting and monitoring the development of a program of health care self-insurance for state employees as authorized by KRS 42.800 to 42.825~~;
 - (d) Serve as the central clearinghouse for coordinating and evaluating existing and new risk management programs within all state agencies;
 - (e) Develop financing techniques for risk protection; and
 - (f) Develop and implement other risk management, insurance, and self-insurance programs or other functions and duties as the secretary of the Finance and Administration Cabinet may direct the office to undertake and implement within the general statutory authority and control of the Finance and Administration Cabinet over state property and fiscal affairs of the executive branch of state government, including, but not limited to, those areas pertaining to tort and contractual liability, fidelity, and property risks.
- (3) Nothing in this section shall be construed or interpreted as affecting the operation of the employee benefit programs generally administered by the Division of Employee Benefits within the Personnel Cabinet and of the State Risk and Insurance Services programs administered by the Department of Insurance. However, both of those departments shall coordinate the operation of life insurance, workers' compensation, health care benefit programs, and other self-insured programs with the Division of Risk Management.
- (4) All cabinets, departments, boards, commissions, and other state agencies shall provide to the Division of Risk Management the technical advice and other assistance the Division of Risk Management or the secretary of the Finance and Administration Cabinet shall request in the performance of the functions of the division as described in this section.
- (5) The secretary of the Finance and Administration Cabinet shall have the power and authority to promulgate administrative regulations pursuant to KRS Chapter 13A for purposes of implementing a risk management program for the executive branch of state government. Any administrative regulations promulgated by the secretary shall be administered by the Division of Risk Management.

Section 4. KRS 45A.022 is amended to read as follows:

- (1) This chapter shall apply to all insurance contracts purchased by the Commonwealth, except where the commissioner of insurance determines, with the concurrence of the secretary of Finance and Administration Cabinet, that:
 - (a) An emergency exists;
 - (b) Competition is not feasible; or
 - (c) The annual premium is less than ten thousand dollars (\$10,000).
- (2) Notwithstanding subsection (1) of this section, the health insurance contract or contracts for state employees as authorized by KRS 18A.225 ~~and KRS 42.800 to 42.825~~ shall be subject to the provisions of KRS 45A.080, 45A.085 and 45A.090.

Section 5. KRS 91A.080 is amended to read as follows:

- (1) The legislative body of each city, county, or urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license fee or rate of tax to be effective July 1 of each year on a prospective basis only and shall file with the commissioner of insurance at least one hundred (100) days prior to the effective date, a copy of all ordinances and amendments which impose any such license fee or tax. No less than eighty-five (85) days prior to the effective date, the commissioner of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those city, county, or urban-county governments which have elected to impose the license fees or taxes and the current amount of the license fee or rate of tax.
- (2) Any license fee or tax imposed by a city, county, or urban-county government upon an insurance company with respect to life insurance policies, may be based upon the first year's premiums, and, if so based, shall be applied to the amount of the premiums actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of the city, county, or urban-county government.
- (3) Any license fee or tax imposed by a city, county, or urban-county government upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by the company within each calendar quarter on risks located within the corporate limits of the city, county, or urban-county government on those classes of business which the company is authorized to transact, less all premiums returned to policyholders. In determining the amount of license fee or tax to be collected and to be paid to the city, county, or urban-county government, the insurance company shall use the tax rate effective on the first day of the policy term. When an insurance company collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. With respect to premiums returned to policyholders, the license fee or tax shall be returned by the insurance company to the policyholder pro rata on the unexpired amount of the premium at the same rate at which it was collected and shall be taken as a credit by the insurance company on its next quarterly report to the city, county, or urban-county government. Any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of the Workers' Compensation Act.
- (4) The Department of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting the tax, except that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the city, county or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection, and remittance of the fee or tax and collection fee provided in this section, the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee in this section, may be rounded off to the nearest dollar amount.
- (5) Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this section, the commissioner of insurance shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.
- (6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by administrative regulations promulgated by the Department of Insurance.
- (7) Upon written request of the legislative body of any city, county, or urban-county government, at the expense of the requesting city, county, or urban-county government, which shall be paid in advance by the city, county, or urban-county government to the Department of Insurance, the Department of Insurance shall examine, or cause to be examined by contract with qualified auditors, the books or records of the insurance companies or agents subject to the fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of the examination shall be reported to the city, county, or urban-county government. Willful failure to properly collect and remit the fee or tax imposed by a city, county, or urban-county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.
- (8) The license fees or taxes provided for by subsections (2) and (3) of this section shall be due thirty (30) days after the end of each calendar quarter. Annually, by March 31, each insurer shall furnish each city, county, or urban-county government to which the tax or fee is remitted with a breakdown of all collections in the preceding calendar year for the following categories of insurance:

- (a) Casualty;
 - (b) Automobile;
 - (c) Inland marine;
 - (d) Fire and allied perils;
 - (e) Health; and
 - (f) Life.
- (9) Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Such interest payable to the city, county, or urban-county government is separate of penalties provided for in subsection (7) of this section. No city, county, or urban-county government may impose any penalties other than those provided for in this subsection.
- (10) No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employees under KRS 18A.225 ~~and KRS 42.800 to 42.825~~.
- (11) No county may impose the tax authorized by this section upon the premiums received on policies issued to public service companies which pay ad valorem taxes.
- (12) (a) Insurance companies which pay license fees or taxes pursuant to this section shall credit city license fees or taxes against the same license fees or taxes levied by the county, when the license fees or taxes are levied by the county on or after July 13, 1990.
- (b) If a county imposed and collected the license fee or tax authorized by this section before July 1, 2000, then insurance companies that pay license fees or taxes under this section shall not credit against the county license fee or tax that portion of a city license fee or tax that becomes effective for the first time on or after July 1, 2000, or is increased effective on or after July 1, 2000. The provisions of this paragraph shall expire on June 30, 2002, unless extended by the General Assembly.
- (13) No license fee or tax imposed under this section shall apply to premiums received on health insurance policies issued to individuals nor to policies issued through Kentucky Access created in KRS 304.17B-005.

Section 6. KRS 136.330 is amended to read as follows:

- (1) Every life insurance company doing business in this state, other than fraternal assessment life insurance companies, shall, by March 1 of each year, return to the Revenue Cabinet a statement under oath of all premium receipts on business done in this state during the preceding calendar year or since the last return was made. "Premium receipts" includes single premiums, annuity premiums, premiums received for original insurance, premiums received for renewal, revival or reinstatement of the policies, annual and periodical premiums, dividends applied for premiums and additions, and all other premium payments received on policies that have been written in this state, or on the lives of residents of this state, or out of this state on business done in this state, less returned premiums. No deduction shall be made for dividends on life insurance or annuity policies, but dividends on accident and health insurance policies may be deducted. Premium receipts shall not include annuity premiums or annuity dividends beginning in calendar year 2000.
- (2) (a) An annual tax on premium receipts shall be imposed against every company making a return under this subsection for calendar years beginning before 2000 at a rate of two dollars (\$2) upon each one hundred dollars (\$100) of premium receipts.
- (b) An annual tax on premium receipts shall be imposed against every company making an election pursuant to KRS 136.335 to be taxed under this section, and every company making a return under this section, for calendar years beginning in 2000 as follows:
- 1. For calendar year 2000, one dollar and ninety cents (\$1.90) upon each one hundred dollars (\$100) of premium receipts;
 - 2. For calendar year 2001, one dollar and eighty cents (\$1.80) upon each one hundred dollars (\$100) of premium receipts;
 - 3. For calendar year 2002, one dollar and seventy cents (\$1.70) upon each one hundred dollars (\$100) of premium receipts;

4. For calendar year 2003, one dollar and sixty cents (\$1.60) upon each one hundred dollars (\$100) of premium receipts; and
 5. For calendar year 2004 and each calendar year thereafter, one dollar and fifty cents (\$1.50) on each one hundred dollars (\$100) of premium receipts.
- (3) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 ~~and KRS 42.800 to 42.825~~ shall not be subject to taxation under this section.

Section 7. KRS 136.340 is amended to read as follows:

- (1) Every stock insurance company, other than life, doing business in this state shall, on or before the first day of March of each year, return to the Revenue Cabinet a statement under oath of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, on property or risks in this state during the preceding calendar year or since the last returns were made, including amounts received for reinsurance on Kentucky risks from unauthorized companies, and shall at the same time pay a tax of two dollars (\$2) upon each one hundred dollars (\$100) of such amounts paid to the company, less amounts returned on canceled policies and policies not taken.
- (2) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 ~~and KRS 42.800 to 42.825~~ shall not be subject to taxation under this section.

Section 8. KRS 136.350 is amended to read as follows:

- (1) All mutual companies other than life doing business under this law shall pay to the Revenue Cabinet on or before the first day of March in each year, a tax of two percent (2%) of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, including amounts paid for membership or policy dues or fees, on property or risks in this state during the preceding calendar year, including amounts received for reinsurance on Kentucky risks from unauthorized companies.
- (2) In addition to the foregoing tax, mutual insurance companies and Lloyd's insurers shall pay an annual tax as prescribed for stock insurance companies by KRS 136.360 and for like purposes.
- (3) In computing premiums upon which tax is to be paid there shall be deducted, in both direct and reinsurance business, return premiums on canceled policies and policies not taken, and dividends paid or credited to policyholders.
- (4) The provisions of this section shall not apply to domestic mutual companies, cooperative or assessment fire insurance companies.
- (5) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 ~~and~~ ~~KRS 42.800 to 42.825~~ shall not be subject to taxation under this section.

Section 9. KRS 205.640 is amended to read as follows:

- (1) The commissioner of Medicaid services shall adopt a disproportionate share program consistent with the requirements of Title XIX of the Social Security Act which shall include to the extent possible, but not limited to, the provisions of this section.
- (2) The "Medical Assistance Revolving Trust Fund" (MART) shall be established in the State Treasury and all provider tax revenues collected pursuant to KRS 142.301 to 142.359 shall be deposited in the State Treasury and transferred on a quarterly basis to the Department for Medicaid Services for use as specified in this section. All investment earnings of the fund shall be credited to the fund. Provider tax revenues collected in accordance with KRS 142.301 to 142.359 shall be used to fund the provisions of KRS 216.2920 to 216.2929 and to supplement the medical assistance-related general fund appropriations for fiscal year 1994 and subsequent fiscal years. Notwithstanding the provisions of KRS 48.500 and 48.600, the MART fund shall be exempt from any state budget reduction acts.
- (3) (a) Beginning in state fiscal year 2000-2001 and continuing annually thereafter, provider tax revenues and state and federal matching funds shall be used to fund the disproportionate share program established by the commissioner of Medicaid services. Disproportionate share funds shall be divided into three (3) pools for distribution as follows:
 1. Forty-three and ninety-two hundredths percent (43.92%) of the total disproportionate share funds shall be allocated to acute care hospitals;

2. Thirty-seven percent (37%) of the total disproportionate share funds shall be allocated to university hospitals; and
3. Nineteen and eight hundredths percent (19.08%) of the total disproportionate share funds shall be allocated to private psychiatric hospitals and state mental hospitals, with the allocation to each respective group of hospitals established by the biennial budget.

If, in any year, one (1) or both university hospitals fail to provide state matching funds necessary to secure federal financial participation for the funds allocated to university hospitals under this subsection, the portion of the funding allocation applicable to the hospital or hospitals that fail to provide state matching funds shall be made available to acute care hospitals.

- (b) The MART fund shall be used to compensate acute care hospitals, private psychiatric hospitals, and university hospitals qualifying for the disproportionate share program for uncompensated service provided by the hospitals to individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level, as determined by the hospital pursuant to administrative regulations promulgated by the Cabinet for Health Services in accordance with this section.
- (c) An individual hospital shall receive distributions for indigent care provided by that hospital that meets the guidelines established in paragraph (a) of this subsection.
- (d) Distributions to acute care and private psychiatric hospitals shall be made as follows:
 1. The department shall calculate an indigent care factor for each hospital annually. The indigent care factor shall be determined by calculating the percentage of each hospital's annual indigent care costs toward the sum of the total annual indigent care costs for all hospitals within each respective pool. For purposes of this paragraph, "indigent care costs" means the hospital's inpatient and outpatient care as reported to the department multiplied by the hospital's Medicaid rate, or at a rate determined by the department in administrative regulation that, when multiplied by the hospital's reported indigent care, is equivalent to the amount that would be payable by the department under the fee-for-service Medicaid program for the hospital's total reported indigent care.
 2. Each hospital's annual distribution shall be calculated by multiplying the hospital's indigent care factor by the total fund allocated to all hospitals within the respective pool under paragraph (a) of this subsection.
 - a. Hospitals shall report uncompensated care provided to qualified individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level, including care rendered to indigent persons age twenty-two (22) to sixty-four (64) in a psychiatric hospital to the Cabinet for Health Services on a quarterly basis. However, all data for care provided during the state fiscal year shall be submitted no later than August 15 of each year.
 - b. The department shall use indigent care data for services delivered from October 1, 1998, through September 30, 1999, as reported by hospitals to calculate each hospital's indigent care factor for state fiscal year 2000-2001. For state fiscal year 2001-2002 and each year thereafter, the department shall use data reported by the hospitals for indigent care services rendered for the twelve (12) month period ending June 30 of each year as reported by the hospital to the department by August 15 in calculating each hospital's indigent care factor. The hospital shall, upon request by the Cabinet for Health Services, submit any supporting documentation to verify the indigent care data submitted for the calculation of an indigent care factor and annual payment.
 - c. By September 1 of each year, the department shall calculate a preliminary indigent care factor and preliminary annual payment amount for each hospital, and shall notify each hospital of their calculation. The notice shall contain a listing of each hospital's indigent care costs, their indigent care factor, and the estimated annual payment amount. Hospitals shall notify the department by September 15 of any adjustments in the department's preliminary calculations. The department shall make adjustments identified by hospitals

and shall make a final determination of each hospital's indigent care factor and annual payment amount by October 1.

- (e) For fiscal year 2000-2001 and continuing annually thereafter, the department shall issue to each hospital one (1) lump-sum payment on October 15, or later as soon as federal financial participation becomes available, for the disproportionate share funds available during the corresponding federal fiscal year.
- (4) Notwithstanding any other provision to contrary, total annual disproportionate share payments made to state mental hospitals, university hospitals, acute care hospitals, and private psychiatric hospitals in each state fiscal year shall be equal to the maximum amount of disproportionate share payments established under the Federal Balanced Budget Act of 1997 and any amendments thereto. Disproportionate share payments shall be subject to the availability of adequate state matching funds and shall not exceed total uncompensated costs.
- (5) Hospitals receiving reimbursement shall not bill patients for services submitted for reimbursement under this section and KRS 205.641. Services provided to individuals who are eligible for medical assistance or the Kentucky Children's Health Insurance Program do not qualify for reimbursement under this section and KRS 205.641. Hospitals shall make a reasonable determination that an individual does not qualify for these programs and shall request the individual to apply, if appropriate, for medical assistance or Kentucky Children's Health Insurance on forms supplied by and in accordance with procedures established by the Department for Medicaid Services. The hospital shall document any refusal to apply and shall inform the patient that the refusal may result in the patient being billed for any services performed. The hospital shall not be eligible for reimbursement if the patient was eligible for medical assistance or Kentucky Children's Health Insurance and did not apply. Hospitals receiving reimbursement under this section and KRS 205.641 shall not bill patients for services provided to patients not eligible for medical assistance with family incomes up to one hundred percent (100%) of the federal poverty level.
- (6) The secretary of the Cabinet for Health Services shall promulgate administrative regulations necessary, pursuant to KRS Chapter 13A, for the administration and implementation of this section.
- (7) All hospitals receiving reimbursement under this section and KRS 205.641 shall:
 - (a) display prominently a sign which reads as follows: "This hospital will accept patients regardless of race, creed, ethnic background, or ability to pay." ~~and~~
 - (b) ~~Accept benefits of state health insurance coverage described in KRS 18A.229 and KRS 42.800 to 42.825.~~

SECTION 10. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

To ensure that Kentuckians with disabilities and their families enjoy full partnership in all programs, services, and activities throughout the Commonwealth:

- (1) ***Consistent with this subsection, consideration shall be given to persons with one (1) or more disabilities for membership on any board, task force, or commission established by the Legislative Research Commission or the General Assembly. Persons with one (1) or more disabilities shall not be discriminated against and shall be given an equal opportunity for membership on any board, task force, or commission established by the Legislative Research Commission or the General Assembly consistent with and to the extent required by the Federal Americans with Disabilities Act;***
- (2) ***Individuals with disabilities shall be given an equal opportunity to participate in programs, services, and activities established by the Legislative Research Commission consistent with and to the extent required by the Federal Americans with Disabilities Act;***
- (3) ***If not already a part of staff development training, a program shall be established within the Legislative Research Commission with a disability awareness component; and***
- (4) ***If program evaluation criteria are utilized by the Legislative Research Commission, the criteria may include in the measures of performance, the number of individuals served by the program, service, or activity.***

Section 11. KRS 7.1105 is amended to read as follows:

- (1) To ensure opportunities for participation by persons with disabilities and their families in the development of policies, support, and services that affect them:
 - (a) Persons with one (1) or more disabilities, or members of their families, who may be affected by or be the subject of an advisory board, committee, commission, task force, or ad hoc committee, shall be

included in the membership of each advisory board, committee, commission, task force, or ad hoc committee of the Legislative Research Commission or the General Assembly.

- (b) Persons with one (1) or more disabilities, or members of their families, shall be included in the membership of any advisory committee, board, or commission of the Legislative Research Commission or General Assembly whose mission or purpose is to make recommendations or to establish criteria for services and support for persons with disabilities or to develop standards that govern the services and support funded or administered by any state government agency.
- (c) *Persons with one (1) or more disabilities shall not be discriminated against and shall be given an equal opportunity for membership on any board, task force, or commission established by the Legislative Research Commission or the General Assembly consistent with and to the extent required by the Federal Americans with Disabilities Act.*
- (2) As used in this section, "disability" has the same meaning as in KRS 12.450.
- (3) The requirements of this section shall affect all boards, committees, commissions, task forces, or ad hoc committees created on or after *the effective date of this Act* ~~July 15, 1996~~.
- (4) For boards, committees, commissions, task forces, or ad hoc committees in existence prior to *the effective date of this Act* ~~July 15, 1996~~, any vacancy arising *on or after the effective date of this Act* ~~July 15, 1996~~, shall be filled pursuant to this section.
- (5) The requirements of this section shall only apply to an advisory board, committee, commission, task force, or ad hoc committee that is created specifically to develop or oversee policies or programs related to persons living with a disability or their families, *except that the provisions of paragraph (c) of subsection (1) of this section shall apply.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 12.450 TO 12.465 IS CREATED TO READ AS FOLLOWS:

To ensure that Kentuckians with disabilities and their families enjoy full partnership in all programs, services, and activities throughout the Commonwealth:

- (1) *Consistent with this subsection, consideration shall be given to persons with one (1) or more disabilities for employment in decision-making positions in every program, cabinet, department, and agency of state government. Persons with one (1) or more disabilities shall not be discriminated against and shall be given an equal opportunity to be employed in decision-making positions in every program, cabinet, department, and agency of state government consistent with and to the extent required by the Federal Americans with Disabilities Act;*
- (2) *Individuals with disabilities shall be given equal opportunity to participate in the programs, services, and activities of state government consistent with and to the extent required by the Federal Americans with Disabilities Act;*
- (3) *If not already a part of staff development training for state government, a program shall be developed within the Personnel Cabinet containing a disability awareness component;*
- (4) *Consistent with this subsection, consideration shall be given to persons with one (1) or more disabilities for employment in decision-making positions in any community-based agency that receives funds from any executive cabinet or any of its subdivisions. Persons with one (1) or more disabilities shall not be discriminated against and shall be given an equal opportunity to be employed in decision-making positions in any community-based agency that receives funds from any executive cabinet or any of its subdivisions consistent with and to the extent required by the Federal Americans with Disabilities Act;*
- (5) *If program evaluation criteria is utilized by any community-based agency that receives funds from any executive cabinet or any of its subdivisions for its programs, services, and activities, the criteria may include in the measures of performance, the number of individuals served by the program, service, or activity;*
- (6) *Individuals with disabilities shall be given equal opportunity to participate in the programs, services, and activities of community-based agencies that receive funds from any executive cabinet or any of its subdivisions consistent with and to the extent required by the Federal Americans with Disabilities Act;*

- (7) *If a community-based agency that receives funds from any executive cabinet or any of its subdivisions engages in staff development and training, that community-based agency shall include a program with a disability awareness component;*
- (8) *If a community-based agency that receives funds from any executive cabinet or any of its subdivisions utilizes program evaluation criteria, those criteria may include in any measures of performance, the number of individuals served by the program, service, or activity.*

Section 13. KRS 12.460 is amended to read as follows:

To ensure opportunities for participation by persons with disabilities and their families in the development of policies, support, and services that affect them:

- (1) Persons with one (1) or more disabilities, or members of their families, who receive the services and support of an advisory board, committee, commission, task force, or ad hoc committee of any executive cabinet or any of its subdivisions shall be included in the membership of each of these advisory boards, committees, commissions, task forces, or ad hoc committees.
- (2) Persons with one (1) or more disabilities, or members of their families, shall be included in the membership of local community-based agency governing boards that receive funds directly or indirectly from any executive cabinet or any of its subdivisions to provide services and support to persons with disabilities and their families.
- (3) Persons with one (1) or more disabilities, or members of their families, shall be included in the membership of any advisory committee, board, or commission funded or administered by any executive cabinet or any of its subdivisions whose purpose is to establish criteria for services and support for persons with disabilities, or to develop standards that govern these services and support.
- (4) *Persons with one (1) or more disabilities shall not be discriminated against and shall be given an equal opportunity for membership on any other advisory board, committee, commission, task force, or ad hoc committee consistent with and to the extent required by the Federal Americans with Disabilities Act;*
- (5) The requirements of this section and KRS 12.465 shall only apply to an advisory board, committee, commission, task force, or ad hoc committee that is created specifically to develop or oversee policies or programs related to persons living with a disability or their families, *except that the provisions of subsection (4) of this section shall apply.*

Section 14. KRS 12.465 is amended to read as follows:

- (1) The requirements of KRS 12.450 to 12.465 shall affect all boards, committees, commissions, task forces, or ad hoc committees created on or after *the effective date of this Act* ~~July 15, 1996~~.
- (2) For boards, committees, commissions, task forces, or ad hoc committees in existence prior to *the effective date of this Act* ~~July 15, 1996~~, any vacancy arising *on or after the effective date of this Act* ~~July 15, 1996~~, shall be filled pursuant to KRS 12.460.

SECTION 15. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

To ensure that Kentuckians with disabilities and their families enjoy full partnership in all programs, services, and activities throughout the Commonwealth:

- (1) *Consistent with this subsection, consideration shall be given to persons with one (1) or more disabilities for employment in decision-making positions in the judicial branch of government. Persons with one (1) or more disabilities shall not be discriminated against and shall be given an equal opportunity to be employed in decision-making positions in programs created or under the jurisdiction of the judicial branch consistent with and to the extent required by the Federal Americans with Disabilities Act;*
- (2) *Individuals with disabilities shall be given equal opportunity to participate in the programs established by the judicial branch consistent with and to the extent required by the Federal Americans with Disabilities Act;*
- (3) *If not already a part of staff development training for the judicial branch, a program shall be developed with a disability awareness component;*
- (4) *If program evaluation criteria are utilized by the judicial branch for its programs, services, and activities, the criteria may include in the measures of performance, the number of individuals served by the program, service, or activity.*

Section 16. KRS 26A.012 is amended to read as follows:

- (1) To ensure opportunities for participation by persons with disabilities and their families in the development of policies, support, and services that affect them:
 - (a) Persons with one (1) or more disabilities, or members of their families, who may be affected by or be the subject of an advisory board, committee, commission, task force, or ad hoc committee, shall be included in the membership of each advisory board, committee, commission, task force, or ad hoc committee of the judicial branch.
 - (b) Persons with one (1) or more disabilities, or members of their families, shall be included in the membership of any advisory committee, board, or commission of the judicial branch whose mission or purpose is to make recommendations or to establish criteria for services and support for persons with disabilities or to develop standards that govern the services and support funded or administered by any state government agency.
 - (c) ***Persons with one (1) or more disabilities shall not be discriminated against and shall be given an equal opportunity to be included in the membership of any other advisory board, committee, commission, task force, or ad hoc committee consistent with and to the extent required by the Federal Americans with Disabilities Act.***
- (2) As used in this section "disability" has the same meaning as in KRS 12.450.
- (3) The requirements of this section shall affect all boards, committees, commissions, task forces, or ad hoc committees created on or after ***the effective date of this Act***~~July 15, 1996~~.
- (4) For boards, committees, commissions, task forces, or ad hoc committees in existence prior to ***the effective date of this Act***~~July 15, 1996~~, any vacancy arising ***on or after the effective date of this Act***~~July 15, 1996~~, shall be filled pursuant to this section.
- (5) The requirements of this section shall only apply to an advisory board, committee, commission, task force, or ad hoc committee that is created specifically to develop or oversee policies or programs related to persons living with a disability or their families, ***except that the provisions of paragraph (c) of subsection (1) of this section shall apply.***

Section 17. The General Assembly confirms Executive Order 2000-602, dated May 22, 2000, relating to the abolishment of the Kentucky Kare Health Insurance Authority, to the extent it is not otherwise confirmed by this Act.

Section 18. The following KRS sections are repealed:

- 18A.2288 Coverage of pre-existing conditions in changes of state health plan and upon retirement of CERS or KERS member.
- 18A.229 Alternative health coverage plans for state employees.
- 42.800 Kentucky Kare Health Insurance Authority -- Board of directors -- Executive director -- Annual audit.
- 42.805 Kentucky Kare health insurance fund -- Benefits -- Contributions -- Provisions of plan -- Group rates for disabled children.
- 42.810 Duties of authority -- Amounts credited to fund -- Investment of fund -- Annual report -- Actuarial evaluation.
- 42.815 Self-funded health insurance fund not subject to certain taxes.
- 42.820 Authority determines date on which option is available.
- 42.825 Exclusion of coverage for employment-related conditions.

Approved March 30, 2001

CHAPTER 165**(HB 173)**

AN ACT relating to school facilities construction.

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

Section 1. KRS 157.615 is amended to read as follows:

As used in KRS 157.611 to 157.640, unless the context requires otherwise:

- (1) "Available local revenue" means the sum of the school building fund account balance; the bonding potential of the capital outlay ***and building funds*** ~~fund~~; ***and*** the capital outlay fund account balance ***on June 30 of odd-numbered years***; ~~and the general fund balance minus ten percent (10%) of the annual general fund budget~~. These accounts shall be as defined in the manual for Kentucky school financial accounting systems;
- (2) "Board of education" means the governing body of a county school district or an independent school district;
- (3) "Bonds" or "bonds of the commission" means bonds issued by the commission, or issued by a city, ~~or~~ county, ***or other agency or instrumentality of the Board of Education***, in accordance with KRS Chapter 162, payable as to principal and interest from rentals received from a board of education or from the department pursuant to a lease or from contributions from the commission, and constitute municipal bonds exempt from taxation under the Constitution of the Commonwealth;
- (4) "Department" means the State Department of Education;
- (5) "District technology plan" means the plan developed by the local district and the Department of Education and approved by the Kentucky Board of Education upon the recommendation of the Council for Education Technology;
- (6) "Equivalent tax rate" means the rate which results when the income from all taxes levied by the district for school purposes is divided by the total assessed value of property plus the assessment for motor vehicles certified by the Revenue Cabinet as provided by KRS 160.470 ~~[- The amount of income from any voted building tax shall be included in computing the equivalent tax rate];~~;
- (7) "Kentucky Education Technology System" means the statewide system set forth in the technology master plan issued by the Kentucky Board of Education with the recommendation of the Council for Education Technology and approved by the Legislative Research Commission;
- (8) "Lease" or "lease instrument" means a written instrument for the leasing of one (1) or more school projects executed by the commission as lessor and a board of education as lessee, or executed by the commission as lessor and the department as lessee, as the case may be;
- (9) "Lease/purchase agreement" means a lease between the school district or the department and a vendor that includes an option to purchase the technology equipment or software at the end of the lease period;
- (10) "Percentage discount" means the degree to which the commission will participate in meeting the bond and interest redemption schedule required to amortize bonds issued by the commission on behalf of a local school district;
- (11) "Project" means a defined item of need to construct new facilities or to provide major renovation of existing facilities which is identified on the priority schedule of the approved school facilities plan;
- (12) "School facilities plan" means the plan developed pursuant to the survey specified by KRS 157.420 and by administrative regulations of the Kentucky Board of Education;
- (13) "Technology master plan" means the long-range plan for the implementation of the Kentucky Education Technology System as developed by the Council for Education Technology and approved by the Kentucky Board of Education and the Legislative Research Commission;
- (14) "Unmet facilities need" means the total cost of new construction and major renovation needs as shown by the approved school facilities plan less any available local revenue;
- (15) "Unmet technology need" means the total cost of technology need as shown by the approved technology plan of the local district; and

- (16) "Eligible district" means any local school district having an unmet facilities need, as defined in this section, in excess of one hundred thousand dollars (\$100,000) or a district qualifying for education technology funding.

Section 2. KRS 157.620 is amended to read as follows:

- (1) To participate in the school construction funding program, the district must have unmet needs as defined by KRS 157.615 and must meet the following eligibility criteria:
 - (a) Commit at least an equivalent tax rate of five cents (\$0.05) to debt service, new facilities, or major renovations of existing school facilities as defined by KRS 157.440. A district that levies the five cents (\$0.05) and has not accepted an official offer of assistance from the School Facilities Construction Commission, made pursuant to KRS 157.611, may use receipts from the levy for other purposes as determined by the district board of education.
 - (b) On ***July 1 of odd-numbered years***~~[July 29, 1985, and on June 30 of each year thereafter]~~, the district board of education shall ~~restrict~~~~[transfer]~~ all available local revenue, as defined by KRS 157.615, ~~[to a restricted account]~~ for school building construction, to be utilized in accordance with the priorities determined by the ~~most current~~~~[approved]~~ school facilities plan ***approved by the Kentucky Board of Education***.
- (2) Interest earned on~~[funds deposited in the]~~ restricted ~~funds~~~~[accounts]~~ required by this section shall~~[be deposited in the restricted account and shall]~~ become a part of the restricted funds.
- (3) Funds restricted by the requirements of this section may be used by the district for projects or a portion thereof as listed in priority order on the approved school facilities plan prior to receiving state funds. Any local school district which is not an eligible district may be permitted, upon written application to the Department of Education, to transfer funds restricted by KRS 157.611 to 157.640 for other school purposes.
- (4) Not later than October 15 of the year immediately preceding ***an even-numbered year***~~[the]~~ regular session of the General Assembly, the Kentucky Board of Education shall submit a statement to the School Facilities Construction Commission certifying the following in each district:
 - (a) The amount of school facility construction needs in each district;
 - (b) The amount of available local revenue in each district; and
 - (c) That the district has or has not met the eligibility criteria established by subsection (1) of this section.
- (5) Construction needs shall be those needs specified in the school facilities plan approved by the Kentucky Board of Education as of June 30 of the year preceding ***an even-numbered year regular session of the General Assembly***~~[the biennium in which funding is approved]. [All school facilities plans not approved by the State Board for Elementary and Secondary Education since January 1, 1981, shall be revised by December 31, 1985. The Kentucky Board of Education shall conduct public hearings on all amendments to approved plans.]~~
- ~~(6) If a local board of education determines that for any reason the district's approved facility plan is grossly inconsistent with the administrative regulations governing the development of the plan, the local board may certify, by official action, the reason for such inconsistency and may request that the Department of Education resurvey the building needs of the district. After review of the data, the chief state school officer may require a resurvey and the approval of a new facility plan certified prior to an official offer from the School Facilities Construction Commission, and on or before January 15 of any subsequent year. If the chief state school officer elects to recommend the new facility plan to the Kentucky Board of Education, the board shall notify the School Facilities Construction Commission of any change required in the statement of need for the district.]~~

Section 3. KRS 157.622 is amended to read as follows:

The School Facilities Construction Commission shall be governed by the following procedures in providing assistance to school districts for construction purposes:

- (1) Upon receipt of the certified statements from the Kentucky Board of Education as required by KRS 157.620, the commission shall compute the unmet needs of all eligible districts as defined by KRS 157.615;
- (2) Assistance to each eligible district shall be determined by computing the ratio of the available state funding to total unmet need statewide. Based on the computed ratio, an equivalent percentage of each eligible district's unmet need will be funded;

- (3) Each eligible district which has otherwise complied with the provisions of KRS 157.615 and 157.620 shall be offered sufficient funding to finance construction of the portion of its unmet need computed by applying the ratio determined in subsection (2) of this section to the total unmet need of the district. The funds shall be applied to the projects listed on the *most current* facility plan *approved by the Kentucky Board of Education*~~[certified to the School Facilities Construction Commission prior to the appropriation of funds]~~, and the funds shall be applied to projects in the priority order listed on the plan. Exceptions to the priority order of projects may be approved by the School Facilities Construction Commission when it is documented by the local board of education and approved by the Kentucky Board of Education upon the recommendation of the chief state school officer that the school district's priority order of needs has changed. The exceptions shall not alter the amount of the offer of assistance;
- ~~[(4) Any school district which met all criteria for first round funding with the School Facilities Construction Commission and which received an offer of assistance from the School Facilities Construction Commission, but which had sold bonds in the sixty (60) days prior to receiving the offer under the assumption that an offer would be made, shall be eligible to receive the assistance for which the district qualified;]~~
- (4)~~[(5)]~~ The commission shall promulgate administrative regulations whereby an eligible district which fails in any budget period to receive an allocation of state funds that is sufficient to fund the district's priority project or portions thereof may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed four (4) years. Accumulation and retention of credit is contingent upon the transfer of available local revenue to the restricted construction account by June 30 of each year;
- (5)~~[(6)]~~ Except as provided in subsection (7) of this section, all unused state allocations accumulated according to the provisions of subsection (3) of this section shall be reallocated by the commission. The reallocation shall follow the process and intent as set forth in this section with eligible districts being those districts which contribute unused state allocations to the reallocation account. Any district which has an unused state allocation after funding its first priority project in a biennium is not eligible for consideration for additional funds from the reallocation account. Any funding received and utilized from the reallocation account by a district shall equally reduce the credit as set forth in this section; and
- (6)~~[(7)]~~ Refinancing savings that have occurred since July 1, 1997, and subsequent savings to the commission generated over the life of a bond by the local district's refinancing of the bond shall be dedicated to the district's account by the commission. Any funds accumulated in this account shall be used toward the district's next priority, but shall not be deducted from the district's share of commission funds under subsection (3) of this section.

Approved March 30, 2001