

CHAPTER 1

(SB 157)

AN ACT relating to commerce.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 11 of this Act:

- (1) *"Person" means an individual, corporation, trust, partnership, incorporated or unincorporated association, and any other legal entity.*
- (2) *"Mail order contact lens seller" means an individual or entity that sells contact lenses and dispenses them to Kentucky residents through the United States Postal Service or other common carrier.*
- (3) *"Contact lens prescription" means a written order bearing the original signature of a licensed optometrist, osteopath, or physician, or an oral order issued directly by a licensed optometrist, osteopath, or physician that authorizes dispensing of contact lenses to a patient. A contact lens prescription includes contact lenses without power sold for cosmetic purposes.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

- (1) *A contact lens prescription shall include the following:*
 - (a) *The ophthalmic information necessary to accurately fabricate or dispense the lenses including the lens manufacturer, lens series, and the lens material if applicable;*
 - (b) *Power and base curve;*
 - (c) *Name, license number, telephone number, and for written orders, the signature of the prescribing optometrist, osteopath, or physician;*
 - (d) *Patient's name and address, expiration date of the prescription, and number of refills or lenses permitted; and*
 - (e) *The date of issuance.*
- (2) *The prescription may also include the diameter, axis, add power, cylinder, peripheral curve, optical zone, and center thickness.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Unless a health-related reason for the limitation is noted in the patient's medical records, contact lens prescriptions shall not have an expiration date of less than twelve (12) months from the date the prescription is authorized or the last date of the contact lens evaluation by a licensed optometrist, osteopath, or physician, whichever date is later. In no event shall a contact lens prescription be valid twelve (12) months after the date of authorization by a licensed optometrist, osteopath, or physician.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

- (1) *All mail order contact lens sellers and any person authorized in accordance with KRS Chapters 320, 315, or 326 to dispense contact lenses in the Commonwealth shall verify the contact lens prescription by the following:*
 - (a) *Receipt of a written or faxed valid contact lens prescription signed by the prescribing optometrist, osteopath, or physician; or*
 - (b) *An electronic or oral affirmative communication of the complete contact lens prescription from the prescribing optometrist, osteopath, or physician.*
- (2) *If a mail order contact lens seller or any person authorized to dispense contact lenses in the Commonwealth finds it necessary to contact the prescribing optometrist, osteopath, or physician via telephone in order to verify a contact lens prescription, the following protocols shall be followed:*
 - (a) *Calls shall be made during regular business hours;*

- (b) *Any verification requests shall include the name, address, and telephone number of the patient;*
 - (c) *The toll-free telephone number as required by subsection (7) of Section 8 of this Act shall be included in voice mail or messages left on answering machines;*
 - (d) *Contact lens prescriptions shall not be mailed, sent, delivered, or dispensed before verification by the optometrist, osteopath, or physician;*
 - (e) *Touch-tone telephone options offered by a mail order contact lens seller or any person authorized to dispense contact lenses in the Commonwealth shall not constitute verification; and*
 - (f) *Response-time options stated by a mail order contact lens seller or any person authorized to dispense contact lenses in the Commonwealth shall not constitute verification.*
- (3) *In the absence of a prescription as defined and described in Sections 1 and 2 of this Act, it shall be a violation of Sections 1 to 11 of this Act to dispense contact lenses through the mail or otherwise to a Kentucky resident.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

- (1) *Any mail order contact lens seller or any person authorized to dispense contact lenses in the Commonwealth who fills a contact lens prescription bears the full responsibility for the accurate dispensing of the contact lenses provided under the contact lens prescription. At no time shall any changes or substitutions be made including brand, type of lenses, or ophthalmic parameters without the direction of the optometrist, osteopath, or physician who issued the contact lens prescription.*
- (2) *The optometrist, osteopath, or physician shall not be liable for any damages for injury resulting from the packaging, manufacturing, or dispensing of the contact lenses unless the contact lens seller and the contact lens prescriber are the same person.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

A contact lens fitting shall be complete and a contact lens prescription may be written when:

- (1) *The optometrist, osteopath, or physician has completed all measurements, tests, and examinations necessary to satisfy his or her professional judgment that the patient is a viable candidate to wear contact lenses, recognizing that more than one (1) visit between the patient and the optometrist, osteopath, or physician may be required; and*
- (2) *Contact lenses suitable for the patient's eyes have been evaluated and fitted by the optometrist, osteopath, or physician to the patient's eyes and the optometrist, osteopath, or physician is satisfied with the fitting based on the visual needs of the patient.*

The patient shall be entitled to receive a copy of the contact lens prescription until its expiration date.

SECTION 7. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

No person located outside of Kentucky shall ship, mail, deliver, or sell contact lenses to a patient at a Kentucky address unless:

- (1) *Registered with the Attorney General of the Commonwealth of Kentucky; and*
- (2) *In possession of a valid contact lens prescription as defined and described in Sections 1 and 2 of this Act.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

The Attorney General shall require and provide for the annual registration of all mail order contact lens sellers located outside of the Commonwealth that dispense contact lenses to Kentucky residents, including those providing contact lenses via the Internet. A mail order contact lens seller's registration shall be granted upon the disclosure and certification by the seller of all of the following:

- (1) *The seller is licensed or registered to distribute contact lenses in the state in which the dispensing facility is located and from which the contact lenses are dispensed;*
- (2) *The location, names, and titles of all owners, partners, corporate officers, and the person who is responsible for overseeing the dispensing of contact lenses to residents of this state;*

- (3) *The seller has complied with and shall continue to comply with all lawful directives and appropriate requests for information from the appropriate agency of each state in which the seller is licensed or registered;*
- (4) *The seller shall respond to all requests for information from the Attorney General within thirty (30) days from receipt of the request;*
- (5) *The seller shall maintain records of contact lenses dispensed to residents of this state for a period of ten (10) years, and that the records shall be readily available for inspection by the Attorney General upon demand;*
- (6) *The seller shall provide a toll-free telephone service during its regular hours of operation for the sole purpose of responding to the patients in this state concerning questions and complaints. All questions relating to eye care shall be referred to the doctor prescribing the contact lenses;*
- (7) *The seller shall provide a toll-free telephone service during its regular hours of operation solely for optometrists, osteopaths, and physicians.*
- (8) *The seller shall provide the following or a substantially equivalent written notification to the patient whenever contact lenses are supplied: WARNING: IF YOU ARE HAVING ANY OF THE FOLLOWING SYMPTOMS REMOVE YOUR CONTACT LENSES IMMEDIATELY AND CONSULT YOUR EYE CARE PRACTITIONER BEFORE WEARING YOUR LENSES AGAIN: UNEXPLAINED EYE DISCOMFORT, WATERING, VISION CHANGE, OR REDNESS; and*
- (9) *The seller's license or registration, in the state in which the seller is licensed or registered, has not been suspended or revoked, but should the seller be the subject of any investigation undertaken by the licensing or registering state, or should the seller's license or registration be suspended or revoked, then the seller shall immediately notify the Attorney General of such actions.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

The Attorney General shall charge a fee for investigation and registration of nonresident dispensers of contact lenses.

SECTION 10. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

The Attorney General shall have the authority to promulgate administrative regulations to carry out the provisions of Sections 1 to 11 of this Act.

SECTION 11. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

- (1) *Any person who dispenses, offers to dispense, or attempts to dispense contact lenses in violation of Sections 1 to 11 of this Act or the administrative regulations promulgated by the Attorney General concerning the dispensing of contact lenses shall, in addition to any other penalty provided by law, pay a civil penalty to the office of the Attorney General in an amount not to exceed five thousand dollars (\$5,000) for each violation.*
- (2) *Any person charged in a complaint filed by the Attorney General with violating any of the provisions of Sections 1 to 11 of this Act shall be entitled to an administrative hearing conducted in accordance with the provisions of KRS Chapter 13B.*
- (3) *Any person aggrieved by a final order issued under the authority of this section shall have the right of an appeal by filing a petition with the Franklin Circuit Court in accordance with KRS Chapter 13B.*

Approved March 6, 2003

CHAPTER 2

(HJR 28)

A JOINT RESOLUTION honoring former Bracken County Judge/Executive Dwayne "Pie" Jett.

WHEREAS, Dwayne "Pie" Jett has ably served the citizens of Bracken County for over 30 years in various civil service and elected positions; and

WHEREAS, Dwayne "Pie" Jett served as Bracken County Sheriff from 1970 to 1974 and from 1978 to 1982; and

WHEREAS, Dwayne "Pie" Jett served five consecutive terms as Bracken County Judge/Executive from 1982 to 2002; and

WHEREAS, Dwayne "Pie" Jett, upon the occasion of his retirement, should be honored for his years of outstanding service and leadership;

NOW, THEREFORE,

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

Section 1. The members of this body, both individually and collectively, proclaim Dwayne "Pie" Jett to be an outstanding citizen and exemplary representative of the Commonwealth.

Section 2. The Transportation Cabinet is directed to name Kentucky Route 19 from Kentucky Route 10 to the AA Highway the 'Dwayne "Pie" Jett Highway.'

Section 3. The Transportation Cabinet shall, within thirty (30) days of the effective date of this Resolution, erect signs on the route identified in Section 2 of this Resolution that read the 'Dwayne "Pie" Jett Highway.'

Approved March 6, 2003

CHAPTER 3

(HB 117)

AN ACT relating to war memorial commissions.

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

Section 1. KRS 97.630 is amended to read as follows:

- (1) Any city of the first class that has constructed a war memorial under the provisions of Chapter 23 of the Acts of 1922 shall have a memorial commission consisting of seven (7) members. Members shall be not less than twenty-five (25) years of age and shall be bona fide residents of the county in which the city is situated. Upon the expiration of the terms of the members of the commission appointed or elected under the provisions of Chapter 23 of the Acts of 1922, the remaining members of the commission shall elect members to succeed those whose terms have expired, to serve for terms of seven (7) years each, and annually thereafter members to succeed those whose terms have expired shall be elected for terms of seven (7) years each by the remaining members of the commission. Vacancies in the terms of members shall be filled by the remaining members of the commission. Members selected to fill vacancies shall serve for the unexpired term. The members of the commission shall serve without compensation, but shall be allowed their necessary expenses for travel when engaged on the business of the commission.
- (2) A city of the second, third, fourth, fifth or sixth class that has constructed a war memorial under the provisions of Chapter 128 of the Acts of 1946, may, by ordinance, have a memorial commission consisting of fifteen (15) members. Members of the commission shall be nominated and appointed by the mayor and approved by the city legislative body. Five (5) of said members shall be appointed to serve five (5) years; five (5) members shall be appointed to serve six (6) years; and five (5) members shall be appointed to serve seven (7) years. Thereafter, members to succeed those whose terms have expired shall be elected by the remaining members of the commission for terms of ~~three (3)~~ ~~seven (7)~~ years. Vacancies in the terms of members shall be filled by the remaining members of the commission. Members selected to fill vacancies shall serve for the unexpired term. The members of the commission shall serve without compensation, but shall be allowed their necessary expenses for travel when engaged in the business of the commission.

Approved March 6, 2003

CHAPTER 4**(HB 49)**

AN ACT relating to college preparatory educational programs.

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

Section 1. KRS 164.002 is amended to read as follows:

As used in KRS Chapter 164, unless the context requires otherwise:

- (1) "Advanced placement" means a college-level course for the College Board Advanced Placement examination that incorporates all topics and instructional strategies specified by the College Board on its standard syllabus for a given subject area.
- (2) ~~"Board" means the Kentucky Board of Education.~~
- (3) ~~"College Board Advanced Placement examination" means the advanced placement test administered by the College Entrance Examination Board.~~
- (3) ~~(4)~~ "College Board" means the College Entrance Examination Board, a national nonprofit association that provides college admission guidance and advanced placement examinations.
- (4) ~~(5)~~ ~~"Department" means the Kentucky Department of Education.~~
- (6) ~~(7)~~ "Dual credit" means a college-level course of study developed in accordance with KRS 164.098 in which a high school student receives credit from both the high school and postsecondary institution in which the student is enrolled upon completion of a single class or designated program of study.
- (5) ~~(7)~~ "Dual enrollment" means a college-level course of study developed in accordance with KRS 164.098 in which a student is enrolled in a high school and postsecondary institution simultaneously.
- ~~(8) "International Baccalaureate" means the International Baccalaureate Organization's Diploma Programme, a comprehensive two (2) year program designed for highly motivated students.~~
- ~~(9) "Kentucky Virtual High School" means secondary level instructional programs or courses offered by the Kentucky Department of Education through the Internet and other on-line, computer-based methods.~~
- ~~(10) "Kentucky Virtual University" means a college level instructional program offered by the Council on Postsecondary Education through the Internet or other on-line, computer-based methods.]~~

Approved March 6, 2003

CHAPTER 5**(HB 194)**

AN ACT relating to services to individuals with mental illness, alcohol and other drug disorders, and dual diagnoses.

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

Section 1. KRS 210.502 is amended to read as follows:

- (1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses. 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 secretary of the Justice Cabinet;
 - (d) The commissioner of the Department for Mental Health and Mental Retardation Services;
 - (e) The commissioner of the Department for Medicaid Services;

- (f) The commissioner of the Department of Corrections;
 - (g) The commissioner of the Department of Juvenile Justice;
 - (h) The commissioner of the Department of Education;
 - (i) The commissioner of the Department of Vocational Rehabilitation;
 - (j) The director of the Protection and Advocacy Division of the Public Protection and Regulation Cabinet;
 - (k) The director of the Office of Family Resource and Youth Services Centers;**
 - (l) The executive director of the Office of Aging Services of the Cabinet for Health Services;**
 - (m) The executive director of the Kentucky Agency for Substance Abuse Policy;**
 - (n) The executive director of the Criminal Justice Council;**
 - (o) The director of the Administrative Office of the Courts;**
 - (p) The chief executive officer of the Kentucky Housing Corporation;**
 - (q) The executive director of the Office of Transportation Delivery of the Transportation Cabinet;**
 - (r) The commissioner of the Department of Public Health;**
 - ~~(s)(k)~~ Three (3) members of the House of Representatives who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Speaker of the House; ~~and~~
 - ~~(t)(4)~~ Three (3) members of the Senate who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Senate President;
 - (u) A chairperson and one (1) alternate who is a chairperson of a regional planning council appointed by the secretary of the Cabinet for Health Services from a list of five (5) chairpersons submitted by the Kentucky Association of Regional Mental Health/Mental Retardation Programs;**
 - (v) A consumer and one (1) alternate who is a consumer of mental health or substance abuse services, who is over age eighteen (18), appointed by the secretary of the Cabinet for Health Services from a list of up to three (3) consumers submitted by any consumer advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506; and**
 - (w) An adult family member and one (1) alternate who is an adult family member of a consumer of mental health or substance abuse services appointed by the secretary of the Cabinet for Health Services from a list of up to three (3) persons submitted by any family advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506.**
- (2) The secretary of the Cabinet for Health Services and one (1) member of the General Assembly appointed to the commission shall serve as co-chairs of the commission.
 - (3) Members *designated in paragraphs (a) to (t) of subsection (1) of this section* shall serve during their terms of office.
 - (4) Members and alternates designated in paragraphs (u) to (w) of subsection (1) of this section shall serve a term of two (2) years and may be reappointed for one (1) additional term. These members may be reimbursed for travel expenses in accordance with administrative regulations governing reimbursement for travel for state employees.**

Section 2. KRS 210.504 is amended to read as follows:

- (1) The commission created in KRS 210.502 shall meet as often as necessary to accomplish its purpose but shall meet at least quarterly ~~during the 2000-2001 biennium, and the first meeting shall be held within six (6) months of April 21, 2000. The commission shall meet at least biennially thereafter,~~ or upon the call of either co-chair, the request of four (4) or more members, or the request of the Governor.
- (2) The commission shall receive, integrate, and report~~, as required by subsection (5) of this section,~~ the findings and recommendations of the regional planning councils established under KRS 210.506. **The regional**

planning councils shall provide additional information or study particular issues upon request of the commission.

(3) *The commission:*

- (a) *May establish work groups to develop statewide recommendations from information and recommendations received from the regional planning councils;*
- (b) *May establish work groups to address issues referred to the commission; and*
- (c) *Shall ensure that the regional planning councils have an opportunity to receive, review, and comment on any recommendation or product issued by a work group established under this subsection before the commission takes any formal action on a recommendation or product of a work group.*

~~(4)(3)~~ The commission shall serve in an advisory capacity to accomplish the following:

- (a) Based on information provided under subsection (2) of this section:
 - 1. Assess the needs statewide of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;
 - 2. Assess the capabilities of the existing statewide treatment delivery system including gaps in services and the adequacy of a safety net system; and
 - 3. Assess the coordination and collaboration of efforts between public and private facilities and entities, ***including but not limited to the Council on Postsecondary Education when assessing workforce issues***, and the roles of the Department for Mental Health and Mental Retardation and the regional community mental health centers, state hospitals, and other providers;
- (b) Identify funding needs and related fiscal impact, including Medicaid reimbursement, limitations under government programs and private insurance, and adequacy of indigent care;
- (c) Recommend comprehensive and integrated programs for providing mental health and substance abuse services and preventive education to children and youth, utilizing ***schools and*** community resources;
- (d) Develop recommendations to decrease the incidence of ***repeated arrests, incarceration, and*** multiple hospitalizations of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses; and
- (e) Recommend an effective quality assurance and consumer satisfaction monitoring program that includes recommendations as to the appropriate role of persons with mental illness, alcohol and other drug abuse disorders, and dual diagnoses, family members, providers, and advocates in quality assurance efforts.

~~(5)(4)~~ The commission shall develop a comprehensive state plan that ***provides***~~will provide~~ a template for decision-making regarding program development, funding, and the use of state resources for delivery of the most effective continuum of services in integrated statewide settings appropriate to the needs of the individual with mental illness, alcohol and other drug abuse disorders, and dual diagnoses. ***The state plan shall also include strategies for increasing public awareness and reducing the stigma associated with mental illness and substance abuse disorders.***

~~(6)(5)~~ ~~{Within six (6) months after receiving reports and recommendations from the regional planning councils established under KRS 210.506, the co-chairs of the commission shall present the plan to the Governor and the members of the General Assembly.}~~ The state plan shall~~;~~

- ~~(a) —} advise the Governor and the General Assembly concerning the needs statewide of individuals with mental illness, alcohol and other drug disorders, and dual diagnoses{;} and{~~
- ~~(b) —Advise the Governor and the General Assembly on} whether the recommendations should be implemented by administrative regulations or proposed legislation for the{2002} General Assembly.~~

~~(7)(6)~~ ***The commission shall develop a two (2) year work plan, beginning in 2003, that specifies goals and strategies relating to services and supports for individuals with mental illness and alcohol and other drug disorders and dual diagnoses and efforts to reduce the stigma associated with mental illness and substance abuse disorders.***

- (8) The commission shall review the plan~~[annually]~~ and shall submit annual updates no later than October 1 to the Governor and the Legislative Research Commission.

~~{(7) The commission shall cease to exist four (4) years after April 21, 2000, unless otherwise reauthorized by the General Assembly.}~~

Section 3. KRS 210.506 is amended to read as follows:

- (1) The regional community mental health-mental retardation boards established under KRS 210.370 shall institute regional planning councils for the purpose of conducting assessment and strategic planning. The councils shall be attached to the community mental health-mental retardation boards for administrative purposes.
- (2) A member of the regional community mental health-mental retardation board shall serve as chair of the regional planning council.
- (3) The board shall issue invitations to join the council to no less than two (2) representatives of each of the following groups:
 - (a) Family members of **individuals**~~[adults and children]~~ with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;
 - (b) Consumers of mental health and substance abuse services;
 - (c) County officials and business leaders;
 - (d) Health departments and primary care physicians;
 - (e) Advocates and community organizations;
 - (f) Educators and school personnel;
 - (g) Regional interagency councils established under KRS Chapter 200;
 - (h) Law enforcement and court personnel;
 - (i) Public and private **organizations, agencies, or** facilities that provide services for mental health and substance abuse in the region **that represent**~~[representing]~~ inpatient services, outpatient services, residential services, and community-based supportive housing programs;~~[and]~~
 - (j) Individuals who provide mental health and substance abuse services in the region; **and**
 - (k) Public and private hospitals that provide mental health and substance abuse services.**
- (4) The regional planning councils may establish bylaws and procedures to assist in the operation of the councils.**

Section 4. KRS 210.509 is amended to read as follows:

- (1) The regional planning councils shall meet as often as necessary to accomplish their purpose.
- (2) The regional planning councils shall:
 - (a) Assess in the region the needs of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;
 - (b)
 1. Study the regional mental health and substance abuse treatment delivery system **and identify specific barriers in each region to accessing services;**
 2. Assess the capacity of and gaps in the existing system, including the adequacy of a safety net system **and the adequacy and availability of the mental health and substance abuse professional work force in each region;** and
 3. Assess the coordination and collaboration of efforts between public and private facilities and entities;
 - (c) Develop a regional strategy to increase access to community-based services and supports for individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses. The strategies may include:

1. Exploration of the use of community-based treatment programs, *including but not limited to community-based hospitalization*;
 2. Access to and funding for the most effective medications;
 3. Promotion of family and consumer support groups statewide;~~{and}~~
 4. Reduction of instances of criminalization of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses; *and*
 5. *Efforts to increase housing options for persons at risk of institutionalization*;
- (d) Identify funding needs *and report to the commission established in Section 1 of this Act about the use of any flexible safety net funding if appropriated by the General Assembly*;
 - (e) Evaluate the access of children and youth to mental health and substance abuse services and preventive programs within the region, including but not limited to those provided by schools, family resource and youth services centers, public and private mental health and substance abuse providers and facilities, physical health care providers and facilities, the faith community, and community agencies;
 - (f) Collect and evaluate data regarding individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses who experience repeated hospital admissions, involvement with law enforcement, courts, and the judicial system, and repeated referrals from hospitals to community-based services; *and*
 - (g)~~{Recommend an effective quality assurance and consumer satisfaction monitoring program; and~~
 - ~~(h)}~~ Make recommendations on each subsection of this section to the commission established under KRS 210.502 *by July 1 of each odd-numbered year*~~{within eight (8) months of April 21, 2000}~~. These recommendations may be incorporated into the regional annual plans required by KRS 210.400.
- ~~{(3) The regional councils shall cease to exist four (4) years after April 21, 2000, unless otherwise authorized by the General Assembly.}~~

Section 5. KRS 210.040 is amended to read as follows:

The Cabinet for Health Services shall:

- (1) Exercise all functions of the state in relation to the administration and operation of the state institutions for the care and treatment of persons with mental illness;
- (2) Establish or acquire, in accordance with the provisions of KRS 56.440 to 56.550, other or additional facilities for psychiatric care and treatment of persons who are or may become state charges;
- (3) Cooperate with other state agencies for the development of a statewide mental health program looking toward the prevention of mental illness and the post-institutional care of persons released from public or private mental hospitals;
- (4) Provide for the custody, maintenance, care, and medical and psychiatric treatment of the patients of the institutions operated by the cabinet;
- (5) Provide psychiatric consultation for the state penal and correctional institutions, and for the state institutions operated for children or for persons with mental retardation;
- (6) Administer and supervise programs for the noninstitutional care of persons with mental illness;
- (7) Administer and supervise programs for the care of persons with chronic mental illness, including but not limited to provision of the following:
 - (a) Identification of persons with chronic mental illness residing in the area to be served;
 - (b) Assistance to persons with chronic mental illness in gaining access to essential mental health services, medical and rehabilitation services, employment, housing, and other support services designed to enable persons with chronic mental illness to function outside inpatient institutions to the maximum extent of their capabilities;

- (c) Establishment of community-based transitional living facilities with twenty-four (24) hour supervision and community-based cooperative facilities with part-time supervision; provided that, no more than either one (1) transitional facility or one (1) cooperative facility may be established in a county containing a city of the first class or consolidated local government with any funds available to the cabinet;
- (d) Assurance of the availability of a case manager for each person with chronic mental illness to determine what services are needed and to be responsible for their provision; and
- (e) Coordination of the provision of mental health and related support services with the provision of other support services to persons with chronic mental illness;
- (8) ***Require all providers who receive public funds through state contracts, state grants, or reimbursement for services provided to have formalized quality assurance and quality improvement processes, including but not limited to a grievance procedure; and***
- (9) Supervise private mental hospitals receiving patients committed by order of a court.

Approved March 6, 2003

CHAPTER 6

(SB 95)

AN ACT relating to a pilot teacher internship program and declaring an emergency.

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) ***Whereas, the Education Professional Standards Board is studying the value of modifying the current teacher internship program under KRS 161.030 to provide improved support for beginning teachers, and whereas, the Education Professional Standards Board has received a federal Teacher Quality Enhancement Grant under incentives provided by the 1999 amendments to the Higher Education Act, P.L. 105-244, to support a pilot program to address this issue and other improvements to teacher preparation, the board is authorized, notwithstanding the requirements of KRS 161.030(5), to conduct a pilot program to study a two (2) year internship program. The pilot program may serve up to eight hundred (800) interns. The program shall be conducted between July 1, 2003 and June 30, 2006.***
- (2) ***All interns in the pilot program shall be governed by the provisions of KRS 161.030, except requirements specified in subsections (5), (6), (7), and (9) of KRS 161.030 which the board may deem inappropriate to the pilot program and which shall be modified in administrative regulations promulgated by the board. The board shall promulgate administrative regulations by July 1, 2003, that specify:***
 - (a) ***Conditions under which prospective intern candidates shall be chosen for participation;***
 - (b) ***Incentives to encourage participation in the two (2) year pilot program;***
 - (c) ***Responsibilities of the beginning teacher committee;***
 - (d) ***Duties of teacher mentors;***
 - (e) ***Certification options for interns who may leave the pilot program or lose employment during the pilot years or who have not successfully completed the internship within the two (2) year period;***
 - (f) ***Time, content, and assessment requirements during the mentoring and assessment phases of the internship period; and***
 - (g) ***Other provisions necessary to implement the pilot program.***
- (3) ***The two (2) year internship period shall be counted as experience for teachers for the purpose of continuing contract status, retirement eligibility, and benefits for single salary experience increments.***
- (4) ***A professional teaching certificate shall not be awarded to a participant in the pilot project until successful completion of the pilot internship program.***

- (5) *Participation in the pilot internship program shall not exempt the interns from personnel evaluations to be conducted under KRS 156.557.*
- (6) *The board shall collect data, conduct formal evaluations throughout the pilot project, and complete analyses of the data. The board shall provide preliminary findings to the Interim Joint Committee on Education by October 1, 2005 and a final report by October 1, 2006. The reports shall provide data and information relating to the value and costs of a two (2) year internship program, including the benefits of additional mentoring for new teachers, the impact on the retention of new teachers, and the impact on student learning.*
- (7) *Notwithstanding KRS 45.229, beginning with the 2003-2004 fiscal year, the board may carry forward General funds appropriated for the internship program into the next fiscal year and each subsequent fiscal year through fiscal year 2005-2006 in an amount necessary to support the interns' second year internship experience and to match the Federal funds appropriated under the grant described in subsection (1) of this section.*

Section 2. Whereas it will be necessary for the Education Professional Standards Board to promulgate administrative regulations and to implement the program by the beginning of the 2003-2004 school year, 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 7, 2003

CHAPTER 7

(SB 103)

AN ACT relating to the reorganization of the Transportation Cabinet.

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. 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.
 - (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.
 - (o) ***Office of the Transportation Operations Center.***
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.
 - (k) Office of Human Resource Management.
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 Financial Management.
 - (b) Office of the Controller.
 - (c) Department for Administration.

- (d) Department of Facilities Management.
 - (e) State Property and Buildings Commission.
 - (f) Kentucky Pollution Abatement Authority.
 - (g) Kentucky Savings Bond Authority.
 - (h) Deferred Compensation Systems.
 - (i) Office of Equal Employment Opportunity Contract Compliance.
 - (j) Office of Capital Plaza Operations.
 - (k) County Officials Compensation Board.
 - (l) Kentucky Employees Retirement Systems.
 - (m) Commonwealth Credit Union.
 - (n) State Investment Commission.
 - (o) Kentucky Housing Corporation.
 - (p) Governmental Services Center.
 - (q) Kentucky Local Correctional Facilities Construction Authority.
 - (r) Kentucky Turnpike Authority.
 - (s) Historic Properties Advisory Commission.
 - (t) Kentucky Tobacco Settlement Trust Corporation.
 - (u) 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 Information Technology.
 - (m) Office of Labor-Management Relations and Mediation.
 - (n) Office of General Counsel.
 - (o) Workers' Compensation Funding Commission.
 - (p) 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) Department for Training and Reemployment.
 - (j) Office of General Counsel.
 - (k) Office of Communication Services.
 - (l) Office of Workforce Partnerships.
 - (m) Office of Workforce Analysis and Research.
 - (n) Office of Budget and Administrative Services.
 - (o) Office of Technology Services.
 - (p) Office of Quality and Human Resources.
 - (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.
- 10. Education Professional Standards Board.

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;
 8. ***The Office of Transportation Operations Center, 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. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

The executive director of the Office of the Transportation Operations Center shall be responsible for statewide transportation emergency and critical incident information and systems control. The executive director:

- (1) ***Shall be directly responsible and report to the secretary; and***
- (2) ***May, with the approval of the secretary, employ the staff necessary to perform the duties, functions, and responsibilities of the office.***

Section 4. The General Assembly confirms Executive Order 2002-1192, issued by the Governor on October 18, 2002, to the extent that it is not otherwise confirmed by this Act.

Approved March 7, 2003

CHAPTER 8

(SB 130)

AN ACT relating to student financial assistance.

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

Section 1. KRS 164A.240 is amended to read as follows:

- (1) (a) As used in this section, the term "eligible borrower" ~~means~~~~[shall mean]~~ a student, ***a former student, or [and] the parent of a dependent student or former student,*** who demonstrates an intention and capacity to repay ~~an educational [the]~~ loan ***and meets the loan criteria established by the promulgation of administrative regulations by the corporation.*** ~~[The student shall be a Kentucky resident enrolled or~~

~~accepted for enrollment, on at least a half time basis, at an eligible institution, making satisfactory progress toward completion of a program leading to a certificate, degree or diploma other than theology, divinity, or religious education.]~~

(b) *Notwithstanding KRS 164A.020, with respect to any educational loan made or financed under this section, and any bonds or notes of the corporation to finance educational loans under this section, as used in KRS 164A.010 to 164A.240, the term:*

1. *"Eligible institution" shall be deemed to include any educational institution approved by the corporation;*
2. *"Eligible lender" shall be deemed to include any financial institution approved by the corporation; and*
3. *"Insured student loan" or "student loan" shall be deemed to include any educational loan.*

(2) (a) In addition to the authority granted by KRS 164A.010 to ~~164A.240~~~~[164A.230]~~, the corporation is authorized to:

1. Establish, finance, and operate~~[such]~~ educational loan programs *deemed necessary by*~~[as]~~ the *Kentucky* Higher Education Assistance Authority~~[shall deem necessary in order]~~ to make *or cause to be made*~~[available additional]~~ educational loans~~[, which shall not be insured student loans as that term is defined by KRS 164A.020]~~ to meet the financial needs of eligible borrowers; *and*
2. *Exercise any of its powers with respect to educational loans pursuant to KRS 164A.010 to KRS 164A.240.*

(b) The corporation may, in connection with the program, enter into agreements with loan servicing organizations, guarantors, insurers, financial institutions, eligible lenders, and eligible institutions. The educational loan programs may provide for either the making of educational loans~~[directly]~~ to eligible institutions and the relending to eligible borrowers or the making and purchasing of educational loans by the corporation.

(3) The corporation may promulgate ~~administrative~~~~[necessary rules and]~~ regulations~~[as shall be required]~~ to *implement the provisions of KRS 164A.010 to 164A.240*~~[administer any such program on a financially sound basis, including the requiring of guarantees, cosigning by parents or guardians, nongovernmental loan insurance if available, collateral pledges and other security provisions deemed requisite in the circumstances].~~

(4) The corporation may finance the educational loan programs through the issuance of its bonds or notes subject to the provisions set forth in KRS 164A.010 to ~~164A.240~~~~[164A.230]~~, *except that KRS 164A.080(3) shall not apply to any loans and KRS 164A.160 shall not apply to any bonds or notes issued to fund loans authorized in this section. The*~~[provided that the]~~ proceeds of the bonds *or notes*~~[may be]~~ used for the educational loan programs ~~may~~~~[and shall not]~~ be commingled with the proceeds of bonds or notes financing insured student loans as defined by KRS 164A.020. The bonds or notes issued under the provisions of this subsection shall be special and limited obligations, payable solely and only from the receipts pledged and shall not constitute an indebtedness or liability of the Commonwealth or a pledge of the faith and credit of the Commonwealth.

(5) *The corporation may establish reserve funds or replacement funds in connection with the issuance of bonds and notes for educational loan purposes as determined to be necessary by the board to enable the corporation to accomplish its proper public purposes*~~[No bonds or notes may be issued by the corporation for the purpose of financing a nongovernmentally insured education loan pursuant to this section except upon a finding by the Governor and the Legislative Research Commission that the loans are necessary to meet the financial needs of Kentucky residents to obtain a postsecondary education. In making the determination of need the Governor and Legislative Research Commission shall consider the availability of other student assistance resources].~~

(6) (a) The maximum annual loan amount shall not exceed:

1. The costs incurred by the eligible borrower related to attendance less other financial aid, as certified by the eligible institution;
2. *The repayment amount of loans to fund the borrower's cost;*~~[;]~~ or

3. A lesser amount established by the board.
- (b) The loan proceeds shall be used by the eligible borrower solely for ***these purposes***~~[those costs of attendance]~~.
- (7) The corporation may issue taxable bonds or notes for the financing of any program authorized by this chapter.
- (8) The ***Kentucky*** Higher Education Assistance Authority shall provide the services as the corporation may require to efficiently carry out the purposes of this section.
- (9) ***A person under the age of eighteen (18) years shall be deemed to have full capacity to act and shall have all rights, powers, privileges, and obligations of a person of full age for the purpose of applying for, receiving, and repaying educational loans authorized pursuant to this section. Notwithstanding any other statute to the contrary, a repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of receiving the educational loan.***
- (10) ***The corporation shall establish the interest rates and other terms and conditions for educational loans in a manner that it determines is financially sound. No provision of any other law of the Commonwealth of Kentucky that limits the rate or amount of interest payable on a loan shall apply to an educational loan authorized by this section.***
- (11) ***A loan made pursuant to this section shall be governed by Kentucky law.***
- (12) ***KRS 164.772, KRS 164.774, and KRS 131.565 are applicable to loans made pursuant to this section.***

Section 2. 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 ~~bonds [bond issue]~~ or ***notes issued pursuant to a general bond resolution adopted prior to January 1, 2003, [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.

Approved March 7, 2003

CHAPTER 9

(SCR 17)

A CONCURRENT RESOLUTION reestablishing 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

WHEREAS, 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, preliminary information from a prevalence survey funded by the Traumatic Brain Injury Trust Fund indicates that approximately twenty percent (20%) of random Kentucky households surveyed had one or more household members who had sustained a brain injury; and

WHEREAS, individuals with acquired brain injuries and their families can be productive members of the community but may need life-long supports and services to do so, and 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 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, at the end of January, 2003, there were over 400 more requests for assistance than could be funded by the Traumatic Brain Injury Trust Fund, and there were 152 people on the waiting list for the Acquired Brain Injury Medicaid waiver program; and

WHEREAS, the legislative task force on acquired brain injuries, created by 2001 House Concurrent Resolution 67, found that more time and work was necessary to provide a thorough review of programs, services, and supports for individuals with brain injuries and the task force strongly recommended continuation of their efforts; and

WHEREAS, the provision of the appropriate level of care, treatment, and services in a fiscally responsible manner 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 Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives 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 an accurate estimate 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 services and supports for individuals with acquired brain injuries;
- (3) The elimination of barriers to the access to and provision of services, including but not limited to a centralized information and referral source and increasing the number of professionals skilled in the area of brain injury;
- (4) Strategies to develop intensive inpatient services that provide crisis stabilization, specialized evaluation, and treatment for adults with acquired brain injuries;
- (5) Strategies to increase the effectiveness of services to individuals with acquired brain injuries receiving public services outside of the existing brain injury programs;
- (6) Strategies for the decriminalization of individuals with acquired brain injuries; and
- (7) Strategies to increase the employment of vocational training and educational services to individuals with acquired brain injuries.

Section 2. The members of the task force shall include:

- (1) One (1) member of the Senate, appointed by the President of the Senate;
- (2) One (1) member of the House of Representatives, appointed by the Speaker of the House;
- (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 a list of six (6) names submitted by the Brain Injury Association of Kentucky;
- (4) The chairperson of the Traumatic Brain Injury Trust Fund Board or designee;
- (5) The executive director of the Brain Injury Association of Kentucky or designee;

- (6) The Commissioner of the Department of Vocational Rehabilitation or designee;
- (7) The Secretary of the Justice Cabinet or designee;
- (8) The Commissioner of the Department of Education or designee;
- (9) The executive director of the Kentucky Jailers Association or 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 designate 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 (1) of whom shall represent the Brain Injury Services Unit to be appointed by the Legislative Research Commission;

(12) One (1) representative of a community mental health center appointed by the Legislative Research Commission from a list of three (3) names submitted by the Kentucky Association of Regional Mental Health/Mental Retardation Programs;

(13) One (1) case manager with experience in the provision of community-based services to individuals receiving services through the Acquired Brain Injury Medicaid waiver program, designated by the secretary of the Cabinet for Health Services and appointed by the Legislative Research Commission;

(14) One (1) administrator of the Benefits Management Program of the Traumatic Brain Injury Trust Fund designated by the chairperson of the Traumatic Brain Injury Trust Fund and appointed by the Legislative Research Commission;

(15) One (1) neuropsychologist appointed by the Legislative Research Commission from a list of three (3) names of individuals with at least three (3) years of experience working with individuals with acquired brain injuries submitted by the Kentucky Psychological Association; and

(16) One (1) rehabilitation specialist appointed by the Legislative Research Commission from a list of three (3) names of individuals with at least three (3) years of experience working in a hospital that provides rehabilitation services to individuals with acquired brain injuries submitted by the Kentucky Hospital Association.

Section 3. The task force shall conduct its first meeting no later than July 15, 2003, and shall make a final report of its findings and specific legislative recommendations to the Legislative Research Commission and the Governor no later than January 15, 2004.

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 7, 2003

CHAPTER 10

(HB 18)

AN ACT relating to vehicle emissions.

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

Section 1. KRS 224.20-720 is amended to read as follows:

- (1) A compliance certificate shall be issued for each vehicle which meets and passes the annual inspection requirements. An exemption certificate may be issued under conditions adopted by the issuing authority, except that vehicles registered to military personnel on active duty whose duty station is outside of a county where a vehicle exhaust testing program is implemented shall receive an exemption certificate. A certificate shall be issued to a vehicle only at an official emissions inspection station established and operated under a valid permit issued by the cabinet. All certificates shall be serially numbered or otherwise identified. Certificates shall be strictly accounted for by the issuing authority.
- (2) No vehicle registered in counties required by the cabinet to have a vehicle emission control program shall have its registration renewed pursuant to KRS Chapter 186 without a valid compliance certificate or exemption

certificate issued pursuant to KRS 224.20-710 to 224.20-765. Vehicles with state or official registration routinely operating in these counties shall be inspected at *the same frequency as privately owned registered vehicles* ~~[least once within each twelve (12) month period following the original registration]~~.

Approved March 7, 2003

CHAPTER 11

(HB 24)

AN ACT relating to the Underground Railroad.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act:

- (1) *"Commission" means the Kentucky African-American Heritage Commission.*
- (2) *"Council" means the Underground Railroad Advisory Council established in Section 3 of this Act.*
- (3) *"Underground Railroad" means the escape of African-American slaves from or through Kentucky.*

SECTION 2. A NEW SECTION OF KRS 171.800 TO 171.830 IS CREATED TO READ AS FOLLOWS:

The commission shall coordinate Kentucky's Underground Railroad initiative in accordance with Section 4 of this Act. The commission's duties as they relate to this initiative shall include but not be limited to the following:

- (1) *Undertake a comprehensive statewide inventory of historic sites related to the Underground Railroad, and implement a master plan for site protection and development;*
- (2) *Encourage and assist the state preservation officer within the Kentucky Heritage Council to nominate significant historical sites of the Kentucky Underground Railroad to the national and state registers of historic places;*
- (3) *Develop and operate, in conjunction with the Tourism Development Cabinet, a program of public information, education, and promotion of the history of the Underground Railroad in Kentucky, to include but not be limited to implementing and maintaining a website connected to the Tourism Development Cabinet;*
- (4) *Coordinate with local, state, and federal authorities in project planning that may affect Underground Railroad sites in Kentucky and neighboring states;*
- (5) *Consider the council's recommendations, and contingent on review by the council, present to the secretary of the Education, Arts, and Humanities Cabinet an annual report and plan for future action; and*
- (6) *Pursue public and private funds to carry out the duties set forth in this section.*

SECTION 3. A NEW SECTION OF KRS 171.800 TO 171.830 IS CREATED TO READ AS FOLLOWS:

An Underground Railroad Advisory Council shall be established within the commission.

- (1) *The council shall consist of thirteen (13) members, as follows:*
 - (a) *Secretary of the Education, Arts, and Humanities Cabinet, or designee;*
 - (b) *Secretary of the Tourism Development Cabinet, or designee;*
 - (c) *Secretary of the Transportation Cabinet, or designee;*
 - (d) *Director of the Kentucky Historical Society, or designee;*
 - (e) *State historic preservation officer of the Kentucky Heritage Council, or designee;*
 - (f) *Chair of the commission or designee;*
 - (g) *Director of the Underground Railroad Institute at Georgetown College, or designee;*

- (h) *Two (2) members of the General Assembly who hold an interest in the Underground Railroad, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives;*
 - (i) *Two (2) at-large representatives who hold an interest in the protection, preservation and promotion of the history of the Underground Railroad in Kentucky, appointed by the Governor;*
 - (j) *One (1) member of the board or staff of the National Underground Railroad Freedom Center who resides within a county of the Northern Kentucky Area Development District; and*
 - (k) *One (1) member of the board or staff of the National Underground Railroad Museum who resides within a county of the Buffalo Trace Area Development District.*
- (2) *The duties of the council shall be to:*
- (a) *Advise and assist the commission with respect to issues and opportunities related to the Underground Railroad; and*
 - (b) *Annually review and make recommendations to the commission on the annual report and plan for future action.*
- (3) *Members of the council shall be appointed for four (4) year terms, except that initial appointments for the two (2) at-large members shall be made so that one (1) member is appointed for two (2) years, and one (1) member is appointed for three (3) years. Sitting members shall be eligible for reappointment.*
- (4) *The chair of the commission shall serve as chair of the council.*
- (5) *The council shall meet annually or more frequently at the request of the chair.*
- (6) *Six (6) members shall constitute a quorum for conducting business.*
- (7) *In the event of a vacancy, the appropriate appointing entity shall appoint a replacement member who shall hold office during the remainder of the term so vacated.*
- (8) *Members of the council shall serve without compensation.*

Section 4. KRS 171.805 is amended to read as follows:

- (1) The Kentucky African-American Heritage Commission shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's African-American heritage.
- (2) The duties and functions of the commission shall be to:
 - (a) Advise the secretary of the Education, Arts, and Humanities Cabinet and agencies within the cabinet on matters relating to African-American heritage.
 - (b) Encourage other public and private agencies within the areas of the arts, the humanities, and the sciences to incorporate the African-American influence when developing programs on the history and heritage of Kentucky.
 - (c) Represent a network of groups and individuals interested or involved in promoting awareness of African-American heritage in Kentucky.
 - (d) Advocate the preservation, conservation, and interpretation of significant buildings, sites, neighborhoods, documents, artifacts, and lifeways that represent and embody African-American heritage.
 - (e) Recognize and sanction projects which advance wider knowledge of African-Americans' impact on life in Kentucky.
 - (f) *Coordinate an initiative to protect, preserve, and promote the history of the Underground Railroad in Kentucky, in accordance with Section 2 of this Act.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

The Education, Arts, and Humanities Cabinet shall be charged with the purpose of protecting, preserving, and promoting the history of the Underground Railroad in Kentucky in accordance with Sections 1, 2, 3, and 4 of this Act. The Secretary of the Education, Arts, and Humanities Cabinet shall receive an annual report from the Kentucky African-American Heritage Commission in accordance with subsection (5) of Section 2 of this Act, and

shall review and submit the annual report to the Governor and the Legislative Research Commission for distribution to the appropriate committees.

Section 6. This Act shall be implemented by the Kentucky African-American Heritage Commission to the extent that grant funds can be secured or funds from federal, state, or local agencies are available for the purposes of this Act.

Approved March 7, 2003

CHAPTER 12

(HB 95)

AN ACT relating to health insurance for public employees.

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

Section 1. 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 "employee" for purposes of this section means:
 1. Any person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state government; or by a public postsecondary educational institution; or by any city, urban-county, charter county, county, or consolidated local government, whose legislative body has opted to participate in the state-sponsored health insurance program pursuant to KRS 79.080; and who is either a contributing member to any one (1) of the retirement systems administered by the state, including but not limited to the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan; or is receiving a contractual contribution from the state toward a retirement plan; or, in the case of a public postsecondary education institution, is an individual participating in an optional retirement plan authorized by KRS 161.567;
 2. Any certified or classified employee of a local board of education;
 3. Any person who is a present or future recipient of a retirement allowance from the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan, except that a person who is receiving a retirement allowance and who is age sixty-five (65) or older shall not be included, with the exception of persons covered under KRS 61.702(4)(c), unless he or she is actively employed pursuant to subparagraph 1. of this paragraph; and
 4. Any eligible dependents and beneficiaries of participating employees and retirees who are entitled to participate in the state-sponsored health insurance program.
- (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, that may include but not be limited to 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 employees. With the exception of employers governed by the provisions of KRS Chapters 16, 18A, and 151B, all employers of any class of employees or former employees shall enter into a contract with the Personnel Cabinet prior to including that group in the state

health insurance group. The contracts shall include but not be limited to designating the entity responsible for filing any federal forms, adoption of policies required for proper plan administration, acceptance of the contractual provisions with health insurance carriers or third-party administrators, and adoption of the payment and reimbursement methods necessary for efficient administration of the health insurance program. 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, and shall include a mail-order drug option as provided in subsection (14) of this section. All 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 Commonwealth 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.

- (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 employees shall agree to provide coverage to all members of the state group, including active employees and retirees and their eligible covered dependents and beneficiaries, within the county or counties specified in its bid. Furthermore, any carrier bidding to offer health care coverage to employees shall also agree to rate all employees as a single entity, except for those retirees whose former employers insure their active employees outside the state-sponsored health insurance program.
 - (d) Any carrier bidding to offer health care coverage to employees 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 with data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual employee; 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 include in the October annual report submitted pursuant to the provisions of KRS 18A.226 to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, an analysis of the financial stability of the program, which shall include but not be limited to loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, 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-sponsored employee health insurance program for its active employees terminates participation and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, then neither the agency nor the employees shall receive the state-funded contribution after termination from the state-sponsored 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-sponsored health insurance plan's appropriation account.
 - (h) Each entity participating in the state-sponsored health insurance program shall provide an amount at least equal to the state contribution rate for the employer portion of the health insurance premium. For any participating entity that used the state payroll system, the employer contribution amount shall be equal to but not greater than the state contribution rate.
- (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 employees. All 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 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 employee, by payroll deduction or otherwise;
 - (b) Wholly from funds contributed by any department, board, agency, public postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local 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, postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local 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 Commonwealth 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, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local 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, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local 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, and continuation of insurance or coverage after retirement.
- (8) Group rates under this section shall be made available to the disabled child of an 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.
- (9) The health care contract or contracts for employees shall be entered into for a period of not less than one (1) year.
- (10) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state-sponsored health insurance program for 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, two (2) members from a list of five (5) names submitted by the Kentucky Association of Counties, two (2) members from a list of five (5) names submitted by the Kentucky League of Cities, 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.

- (11) Notwithstanding any other provision of law to the contrary, the policy or policies provided to 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 employees or their dependents.
- (12) 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 Department of Insurance, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.
- (13) Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse or beneficiary of a retiree, under any one (1) of the state-sponsored retirement systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of any other employment for which there is a public employer contribution. This does not preclude a retiree and an active employee spouse from using both contributions to the extent needed for purchase of one (1) state sponsored health insurance policy for that plan year.
- (14) (a) The policies of health insurance coverage procured under subsection (2) of this section shall include a mail-order drug option for maintenance drugs for state employees. Maintenance drugs may be dispensed by mail order in accordance with Kentucky law.
- (b) A health insurer shall not discriminate against any retail pharmacy located within the geographic coverage area of the health benefit plan and that meets the terms and conditions for participation established by the insurer, including price, dispensing fee, and copay requirements of a mail-order option. The retail pharmacy shall not be required to dispense by mail.
- (c) The mail-order option shall not permit the dispensing of a controlled substance classified in Schedule II.
- (15) The policy or policies provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining a hearing aid and acquiring hearing aid-related services for insured individuals under eighteen (18) years of age, subject to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months.
- (16) If a state employee's residence and place of employment are in the same county, and if the hospital located within that county does not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services and magnetic resonance imaging services, the employee may select a plan available in a contiguous county that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.
- (17) *If a state employee's residence and place of employment are each located in counties in which the hospitals do not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services and magnetic resonance imaging services, the employee may select a plan available in a county contiguous to the county of residence that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.*
- (18) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and in the best interests of the state group to allow any carrier bidding to offer health care coverage under this section to submit bids that may vary county by county or by larger geographic areas.

Approved March 7, 2003

CHAPTER 13

(HB 219)

AN ACT relating to motor vehicle dealers.

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

Section 1. KRS 190.030 is amended to read as follows:

- (1) A motor vehicle dealer, new, used, or auction motor vehicle dealer, motor vehicle leasing dealer, restricted motor vehicle dealer, motorcycle dealer, broker, wholesaler, automotive recycling dealer, or a salesman of

motor vehicles shall not engage in business in this state *at any location* without a license *issued for that location* as provided in KRS 190.010 to 190.080. If a person acts as a motor vehicle salesman, he shall secure a motor vehicle salesman's license in addition to a license for a motor vehicle dealer. The motor vehicle commission may provide by administrative regulation for other licensee activities and an appropriate fee.

- (2) A manufacturer of motor vehicles, factory branch, distributor, distributor branch, or wholesaler shall not engage in business in this state without a license as provided in KRS 190.010 to 190.080.
- (3) A factory representative or distributor representative shall not engage in business in this state without a license as provided in KRS 190.010 to 190.080.
- (4) Application for license shall be made to the licensor, at a time, in a form, and containing information the licensor shall require and shall be accompanied by the required fee. The licensor may require in the application, or otherwise, information relating to the applicant's solvency, his financial standing, or other pertinent matter commensurate with the safeguarding of the public interest in the locality in which the applicant proposes to engage in business. The information may be considered by the licensor in determining the fitness of the applicant to engage in business as set forth in this section.
- (5) All licenses shall be granted or refused within thirty (30) days after submission of a complete application and shall expire, unless revoked or suspended, on December 31 of the calendar year for which they are granted. If a complaint of unfair cancellation of dealer franchise is in the process of being heard, a replacement application for the franchise shall not be considered until a decision is rendered by the commission.
- (6) The license fee for a calendar year, or part thereof, shall be as follows:
 - (a) For new motor vehicle dealers, one hundred dollars (\$100) for each office or branch or agent thereof, plus one hundred dollars (\$100) for a supplemental license for each used car lot not immediately adjacent to the office or to a branch.
 - (b) For used motor vehicle dealers, one hundred dollars (\$100) for each office or branch or agent thereof.
 - (c) For motor vehicle leasing dealers, one hundred dollars (\$100) for each office or branch or agent thereof.
 - (d) For restricted motor vehicle dealers, one hundred dollars (\$100) for each office or branch or agent thereof.
 - (e) For motorcycle dealers, one hundred dollars (\$100) for each office, branch, or agent thereof.
 - (f) For motor vehicle manufacturers, one hundred dollars (\$100); and for each factory branch in this state, one hundred dollars (\$100).
 - (g) For distributors, motor vehicle auction dealers or wholesalers, the same as for dealers.
 - (h) For motor vehicle salesmen, ten dollars (\$10).
 - (i) For factory representatives, or distributor branch representatives, one hundred dollars (\$100).
- (7) The licenses of dealers, manufacturers, factory branches, distributors, and distributor branches shall specify the location of the office or branch and shall be conspicuously displayed there. If the location is changed, the licensor shall endorse the change of location on the license. A licensee shall not be charged a fee for changing locations. A change of location shall require a new application. *A licensee may conduct a temporary sale or display if the temporary sale or display is permitted under an enabling ordinance enacted by the city, county, urban-county, or consolidated local government within whose boundaries the temporary sale or display is to be conducted. A temporary sale or display shall be advertised as temporary in nature and shall consist of a representative sampling of the inventory of each participating licensee.*
- (8) Every salesman, factory representative, or distributor representative shall carry his license when engaged in business, and display it upon request. The license shall name his employer; and in case of a change of employer, the salesman shall immediately mail his license to the licensor who shall indorse the change on the license without charge.
- (9) If the licensor has reasonable cause to doubt the financial responsibility or the compliance by the applicant or licensee with the provisions of this statute, the licensor may require the applicant or licensee to furnish and maintain a bond in a form, amount and with sureties not less than fifteen thousand dollars (\$15,000), conditioned upon the applicant or licensee complying with the provisions of the statutes applicable to the

licensee. The bonds shall be executed in the name of the State of Kentucky for the benefit of any aggrieved parties, but the penalty of the bond shall not be invoked except after a court adjudication. The commission may promulgate administrative regulations to permit the applicant to submit evidence, in lieu of posting bond, that reliable financial arrangements, deposits, or commitments exist providing assurance, substantially equivalent to that afforded by a bond complying with this subsection, for payment on conditions and indemnity set forth in this subsection. The bonding requirements of this subsection shall not apply to manufacturers, factory branches, and their agents.

- (10) Application for dealer's license shall be submitted to the commission and contain information the commission may require. A motor vehicle dealer, unless licensed under KRS 190.010 to 190.080, shall not be permitted to register, receive, or use any motor vehicle registration plates.
- (11) Every motor vehicle dealer licensed in accordance with the provisions of this section shall make reports to the licensor at intervals and show information the licensor may require.

Approved March 7, 2003

CHAPTER 14

(HB 294)

AN ACT making appropriations for the operations, maintenance, support, and functioning of the judicial branch of the government of the Commonwealth and its various officers, boards, commissions, subdivisions, and other state-supported activities.

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

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, Restricted Funds accounts, or Federal Funds accounts for the fiscal year beginning July 1, 2002, and ending June 30, 2003, and for the fiscal year beginning July 1, 2003, and ending June 30, 2004, in the following sums to be used for the purposes of the judicial branch of the government of the Commonwealth of Kentucky including the Supreme Court, Court of Appeals, Circuit Court, District Court, the Administrative Office of the Courts, pretrial services, juvenile services, judicial boards and commissions, the State Law Library, judicial retirement, Local Facilities Fund, Local Facilities Use Allowance Contingency Fund, and for services performed by the circuit clerks' offices, including both Circuit and District Court support.

1. Court of Justice

a. Court operations and administration

	2002-03	2003-04
General Fund	144,659,600	150,490,400
Restricted Funds	11,178,100	11,701,100
Federal Funds	2,956,200	1,223,800
Total	158,793,900	163,415,300

Funds are included to provide a two and seven-tenths percent salary adjustment in fiscal year 2002-2003 for nonelected court personnel. Funds are included to provide a cost-of-living adjustment amounting to an annualized value of \$1,080 in fiscal year 2003-2004 for nonelected permanent full-time court personnel. Included are funds to provide a two and seven-tenths percent salary adjustment for justices and judges in fiscal year 2002-2003. As provided in KRS 48.195, funds are included to provide a cost-of-living adjustment amounting to an annualized value of \$1,080 for justices and judges in fiscal year 2003-2004. Also included are funds to provide a two and seven-tenths percent salary adjustment for the salaries of circuit clerks in fiscal year 2002-2003. Notwithstanding KRS 64.056, funds are included to provide a cost-of-living adjustment amounting to an annualized value of \$1,080 for the circuit clerks in fiscal year 2003-2004. Notwithstanding KRS 64.057, funds are included to provide a cost-of-living adjustment amounting to an annualized value of \$1,080 for deputy circuit clerks in fiscal year 2003-2004. The Director of the Administrative Office of the Courts shall determine a pro rata equivalent value of the \$1,080 which amount shall be awarded to permanent part-time employees. Commencing with an eligible official's or employee's

anniversary date, the cost-of-living adjustment shall be disbursed by payroll period in one-twenty-fourth installment for the duration of employment. The cost-of-living adjustment shall be part of the salary or compensation base of the employee. Also included are funds for the salaries of the circuit clerks in fiscal year 2002-2003 and in fiscal year 2003-2004 as provided for in the Judicial Branch Budget Recommendation.

Notwithstanding KRS 24A.100(3), funds are included in the above General Fund appropriation to continue the statutory maximum salary of trial commissioners as provided for in the Judicial Branch Budget Recommendation.

Included in the above appropriation is \$125,000 in fiscal year 2002-2003 and \$200,000 in fiscal year 2003-2004 to support the Kentucky Legal Education Opportunities (KLEO) Program. Participants may be required to meet certain grade point average (GPA) conditions. Both phases of the Kentucky Legal Education Opportunities (KLEO) Program shall be operational for fiscal year 2003-2004.

b. Local Facilities Fund

	2002-03	2003-04
General Fund	49,346,300	57,845,300

The use allowance for the Fayette County Courthouse is contingent upon Short Street in Lexington, Kentucky, remaining open to vehicular traffic.

Included in the above appropriation are moneys to compensate local units of government for providing court space and for costs incurred in the development of local court facilities as defined in KRS Chapter 26A and provided in Part II of this Act, and to perform all other acts required or authorized by KRS Chapter 26A.

Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2001-2002 shall not lapse and shall continue into fiscal year 2002-2003, and any unexpended balance remaining at the close of fiscal year 2002-2003 shall not lapse and shall be continued into fiscal year 2003-2004.

c. Local Facilities Use Allowance Contingency Fund

	2002-03	2003-04
General Fund	0	0

Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2001-2002 shall not lapse and shall continue into fiscal year 2002-2003, and any unexpended balance remaining at the close of fiscal year 2002-2003 shall not lapse and shall be continued into fiscal year 2003-2004 to provide for cost overruns in authorized court facilities projects not to exceed 15 percent of the use allowance in accordance with KRS Chapter 26A. For any court facility project which is occupied and use allowance funding is insufficient, the use allowance payments shall be approved from the Local Facilities Use Allowance Contingency Fund. If funds are not available in the Local Facilities Use Allowance Contingency Fund, the use allowance shall be deemed a necessary governmental expense (General Fund Surplus Account, KRS 48.700).

Total Court of Justice

	2002-03	2003-04
General Fund	194,005,900	208,335,700
Restricted Funds	11,178,100	11,701,100
Federal Funds	2,956,200	1,223,800
TOTAL	208,140,200	221,260,600

2. Judicial Form Retirement System

	2002-03	2003-04
General Fund	2,500,600	2,519,400
Restricted Funds	145,000	
TOTAL	2,645,600	2,519,400

General Fund amounts are included to provide for the 2001 actuarial assessed needs of the Judicial Form Retirement System.

TOTAL - OPERATING BUDGET

	2002-03	2003-04
General Fund	196,506,500	210,855,100
Restricted Funds	11,323,100	11,701,100
Federal Funds	2,956,200	1,223,800
TOTAL	210,785,800	223,780,000

PART II

CAPITAL PROJECTS BUDGET

1. Local Facility Projects
 - a. Franklin County - Lease Office Space
 - b. Franklin County - Lease Court of Appeals
 - c. Jefferson County - Courts Parking Lease

For any court facility project which is occupied and use allowance funding is insufficient, the use allowance payments shall be approved from the Local Facilities Use Allowance Contingency Fund. If funds are not available in the Local Facilities Use Allowance Contingency Fund, the use allowance payments shall be deemed a necessary governmental expense (General Fund Surplus Account, KRS 48.700).

Nothing in this Act shall reduce the funding of court facility projects authorized by the General Assembly.

TOTAL - JUDICIAL BRANCH BUDGET

	2002-03	2003-04
General Fund	196,506,500	210,855,100
Restricted Funds	11,323,100	11,701,100
Federal Funds	2,956,200	1,223,800
TOTAL	210,785,800	223,780,000

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 2003 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, 2002, and June 30, 2003, 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 2002-2004 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 60 days of the adjournment of the 2003 Regular Session of the General Assembly.

9. Funding for the Commonwealth's family courts has been continued during fiscal year 2002-2003 and fiscal year 2003-2004.

10. The sum of \$6,000,000 from the General Fund carried forward from fiscal year 2001-2002 into fiscal year 2002-2003 in the Local Facilities Fund shall be lapsed to the credit of the General Fund Surplus Account within 30 days of the effective date of this Act.

11. It is the intent of the General Assembly that the Court of Justice shall not eliminate or reduce the number of District Court or Circuit Court employees below the level employed on January 1, 2003.

12. The Chief Justice of the Commonwealth of Kentucky shall have the ability to transfer funds to other programs and budget units within the Judicial Branch. Any funds transferred to other budget units within the Judicial Branch may be used to support any activity, program, or operation of the budget unit or program receiving the respective funds.

13. By September 30 of each year, the Judicial Branch shall submit a report to the Interim Joint Committee on Appropriations and Revenue which details the amount of arrest fees assessed and remitted to each local law enforcement agency for the preceding fiscal year. This report shall be submitted in electronic format.

14. By September 30 of each year, the Judicial Branch shall submit a report detailing the amount and nature of uncollected court fees for the preceding fiscal year. This report shall be submitted in electronic format.

PART IV

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The Judicial Branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

Approved March 7, 2003

CHAPTER 15

(HB 365)

AN ACT relating to the service of distilled spirits and wine.

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

Section 1. KRS 244.050 is amended to read as follows:

- (1) No retail licensee shall give away any alcoholic beverage in any quantity, or deliver it in any quantity for less than a full monetary consideration, except as provided by KRS 243.155, 243.156, 243.157, and subsection (2) of this section.
- (2) A retailer licensed to sell distilled spirits and wine under KRS 243.030(7), (8), or (27) may, after acquiring a license under KRS 243.030(41), allow customers to sample distilled spirits and wine under the following conditions:
 - (a) Sampling shall be permitted only on licensed premises and, for retailers licensed under KRS 243.030(8) *or* (27), during regular business hours;

- (b) A licensee shall not charge for the samples provided to customers;
- (c) Sample sizes shall not exceed:
 - 1. One (1) ounce for wine; and
 - 2. One-half (1/2) ounce for distilled spirits; and
- (d) A licensee shall limit a customer to:
 - 1. Two (2) distilled spirits samples per day; and
 - 2. Six (6) wine samples per day.
- (3) Retailers licensed under KRS 243.030(7) *or* (8) shall:
 - (a) Notify the Department of Alcoholic Beverage Control at least seven (7) days in advance of conducting a sampling event; and
 - (b) Limit a sampling event to a period not to exceed four (4) consecutive hours between 12 noon and 8 p.m.

Approved March 7, 2003

CHAPTER 16

(HB 384)

AN ACT relating to the reorganization of the Department of State Police.

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

Section 1. The General Assembly confirms Executive Order 2002-1067, issued by the Governor on September 12, 2002, which reorganized the Department of State Police as follows:

- (1) The Division of Forensic Services is established and shall be headed by a division director who shall report to the commissioner of state police through the deputy commissioner. The division shall coordinate and manage the laboratory and forensic activities and functions.
- (2) The Administrative Division is renamed the Division of Executive Services.
- (3) The Division of Operations is renamed the Division of Police Services.
- (4) The Services Division is renamed the Division of Technical Services.

Approved March 7, 2003

CHAPTER 17

(HCR 32)

A CONCURRENT RESOLUTION confirming the appointment of Jeffrey C. Mando to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed Jeffrey C. Mando as a member of the Kentucky Board of Education representing the Sixth Supreme Court District for a term expiring April 14, 2006; and

WHEREAS, by letter dated May 10, 2002, the Governor has delivered Jeffrey C. Mando'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 Jeffrey C. Mando 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 appointment of Jeffrey C. Mando to the Kentucky Board of Education for a term ending April 14, 2006.

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, Frankfort, Kentucky 40601 and Jeffrey C. Mando, 2015 River Vista Court, Villa Hills, Kentucky 41011, in writing, of the General Assembly's action.

Approved March 7, 2003

CHAPTER 18

(HCR 34)

A CONCURRENT RESOLUTION confirming the appointment of Esther P. Jansing 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 the House of Representatives; and

WHEREAS, pursuant to KRS 164.011, the Governor has appointed Esther P. Jansing as a citizen member of the Council on Postsecondary Education for a term expiring December 31, 2005; and

WHEREAS, the Senate and the House of Representatives find that Ms. Jansing 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. The House of Representatives and the Senate, pursuant to KRS 164.011, do confirm the appointment of Esther P. Jansing to the Council on Postsecondary Education for a term expiring on December 31, 2005.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution and written notice of its adoption to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601 and to Esther P. Jansing, 1915 Littlewood Drive, Owensboro, Kentucky 42301-4690.

Approved March 7, 2003

CHAPTER 19

(HCR 35)

A CONCURRENT RESOLUTION confirming the appointment of Wallace Campbell to the Education Professional Standards Board.

WHEREAS, KRS 161.028 requires the Governor to appoint 15 citizen members of the Education Professional Standards Board, subject to confirmation by the Senate and House of Representatives; and

WHEREAS, pursuant to KRS 161.028, the Governor has appointed Wallace Campbell as a citizen member of the Education Professional Standards Board representing chief academic officers for a term expiring September 18, 2006; and

WHEREAS, the Senate and the House of Representatives find that Dr. Campbell is qualified to render service;

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, pursuant to KRS 161.028, do confirm the appointment of Dr. Wallace Campbell to the Education Professional Standards Board for a term expiring September 18, 2006.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution, and written confirmation of its adoption, to Dr. Wallace Campbell, 147 North Elm Street, Pikeville, Kentucky 41501, and to Governor Paul E. Patton, Room 100 State Capitol, Frankfort, Kentucky 40601.

Approved March 7, 2003

CHAPTER 20

(HCR 36)

A CONCURRENT RESOLUTION confirming the reappointment of Peggy M. Bertelsman to the Council on Postsecondary Education.

WHEREAS, KRS 164.011 requires the Governor to appoint thirteen citizen members to the Council on Postsecondary Education, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, the Governor has reappointed Peggy M. Bertelsman as a citizen member of the Council on Postsecondary Education for a term expiring December 31, 2008; and

WHEREAS, the House of Representatives and the Senate find that Peggy M. Bertelsman meets the requirements of KRS 164.0053 and KRS 164.011 for service on 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. The House of Representatives and the Senate, as required by KRS 164.011, hereby confirm the reappointment of Peggy M. Bertelsman to the Council on Postsecondary Education for a term expiring December 31, 2008.

Section 2. The Clerk of the House of Representatives shall notify Peggy M. Bertelsman, 25 Mt. Pleasant Lane, Fort Thomas, Kentucky 41075 and Governor Paul E. Patton, State Capitol, Room 100, Frankfort, Kentucky 40601, in writing, of the General Assembly's action.

Approved March 7, 2003

CHAPTER 21

(HCR 37)

A CONCURRENT RESOLUTION confirming the reappointment of Helen W. Mountjoy to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has reappointed Helen W. Mountjoy as a member of the Kentucky Board of Education representing the Second Supreme Court District for a term expiring April 14, 2006; and

WHEREAS, by letter dated May 10, 2002, the Governor has delivered Helen W. Mountjoy'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 Helen W. Mountjoy 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 Helen W. Mountjoy to the Kentucky Board of Education for a term ending April 14, 2006.

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, Frankfort, Kentucky 40601 and Helen W. Mountjoy, 449 Browns Valley Road, Utica, Kentucky 42376, in writing, of the General Assembly's action.

Approved March 7, 2003

CHAPTER 22**(HCR 44)**

A CONCURRENT RESOLUTION confirming the appointment of Hilma S. Prather to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed Hilma S. Prather as a member of the Kentucky Board of Education representing the Third Supreme Court District for a term expiring April 14, 2006; and

WHEREAS, by letter dated May 10, 2002, the Governor has delivered Hilma S. Prather'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 Hilma S. Prather 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 appointment of Hilma S. Prather to the Kentucky Board of Education for a term ending April 14, 2006.

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, Frankfort, Kentucky 40601 and Hilma S. Prather, 510 North Main Street, Somerset, Kentucky 42501, in writing, of the General Assembly's action.

Approved March 7, 2003

CHAPTER 23**(HCR 106)**

A CONCURRENT RESOLUTION confirming the appointment of Vickie Yates Brown 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 November 14, 2002, by Executive Order 2002-1276, the Governor appointed Vickie Yates Brown to the Agricultural Development Board for a term expiring July 6, 2006; and

WHEREAS, Vickie Yates Brown has been appointed as meeting the requirements of KRS 248.707, being an attorney with farm experience and familiarity with agricultural policy 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 Vickie Yates Brown to the Agricultural Development Board for a term to expire on July 6, 2006.

Section 2. The Clerk of the House of Representatives shall forward a copy of this resolution and notification of its adoption to Vickie Yates Brown, 3922 Massie Avenue, Unit #10, Louisville, Kentucky 40207 and to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

Approved March 7, 2003

CHAPTER 24

(HCR 126)

A CONCURRENT RESOLUTION directing the Legislative Research Commission to study compulsive gambling in Kentucky.

WHEREAS, the social impact of compulsive gambling has not been reviewed since the Governor's 1999 research effort regarding expanded gaming in the state; and

WHEREAS, the American Psychiatric Association clinically defines compulsive gaming as a pathological disorder that requires treatment; and

WHEREAS, the National Gambling Impact Study of 1999 contended that problem gambling then cost society at least five billion dollars (\$5,000,000,000) annually in health care and social services, creditor losses, and decreased productivity; and

WHEREAS, there exists no comprehensive study of compulsive gambling in Kentucky;

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 shall direct the Legislative Research Commission to conduct a study regarding compulsive gambling in Kentucky. The study shall include a descriptive and economic analysis of the current status of compulsive gambling in the state and data gathered from agencies, groups, organizations, and persons that provide education, assistance, and counseling to persons and families experiencing difficulty as a result of problem or pathological gambling.

Section 2. The Legislative Research Commission shall transmit the results of the study required by Section 1 of this Resolution to the appropriate committees prior to the 2004 Regular Session of the General Assembly.

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 to designate a study completion date.

Approved March 7, 2003

CHAPTER 25

(HB 250)

AN ACT relating to optometrists.

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

Section 1. KRS 320.321 is amended to read as follows:

- (1) Grievances may be submitted by an individual, organization, or entity, including the board based upon information within the board's knowledge. The board may investigate any ***licensee or unlicensed individual or entity engaged in the practice of optometry*** suspected of ***conduct which would be*** grounds for disciplinary or court action and may hire or appoint persons ***who are knowledgeable in the practice of optometry*** to investigate on its behalf. The board shall have the power to issue investigatory subpoenas for the appearance before the board of any person within the jurisdiction of the Commonwealth of Kentucky and to require production of any record, document, or other item. The board may seek enforcement of investigatory subpoenas in the courts of the Commonwealth as may be necessary. A copy of the grievance shall be mailed to the licensee ***or unlicensed individual or entity engaged in the practice of optometry*** at the last address that the board has on record ***or has been able to determine***. If the licensee ***or unlicensed individual or entity engaged in the practice of optometry*** chooses to respond to the grievance, he or she shall submit a response within ten (10) days after the date on which the grievance was mailed.
- (2) ***Notwithstanding any other provision of law***, the board may initiate disciplinary proceedings ***or court actions*** based upon information within its knowledge or received from other persons. A majority of the board members

may direct the issuance of a complaint; in these instances, the board shall prepare a written complaint, in accordance with KRS Chapter 13B, that shall be signed by the chairman of the board and shall contain sufficient information to apprise the named optometrist *or unlicensed individual or entity engaged in the practice of optometry* of the nature of the charges. A copy of the complaint shall be delivered to the charged optometrist *or unlicensed individual or entity engaged in the practice of optometry* by personal delivery or sent by certified mail to the optometrist's last address that the board has on record *or to a site found for an unlicensed individual or entity engaged in the practice of optometry*. The optometrist *or unlicensed individual or entity engaged in the practice of optometry* shall file a response within twenty (20) days after the complaint was sent or personally served upon the optometrist *or unlicensed individual or entity engaged in the practice of optometry*. Failure to submit a timely response or avoidance of service may be taken by the board *or the court* as an admission of the charges contained in the complaint. The board may then review the grievance, information obtained by the board, and the optometrist's response *or the response of the unlicensed individual or entity engaged in the practice of optometry*, and dismiss the grievance, issue a complaint and notice of hearing, ~~or~~ investigate further, *or bring an action in a court of competent jurisdiction to enforce the provisions of this chapter.*

- (3) The hearing shall be conducted in accordance with KRS Chapter 13B.
- (4) The board may impose discipline upon the licensee under KRS 320.310 if the board finds a violation of this chapter or administrative regulations promulgated under this chapter, after a hearing.
- (5) All costs of the proceeding may be assessed against the charged optometrist *or unlicensed individual or entity engaged in the practice of optometry* if a finding of guilt is made by the board *or by the court*.

SECTION 2. A NEW SECTION OF KRS CHAPTER 320 IS CREATED TO READ AS FOLLOWS:

- (1) *The board may institute, in its own name, proceedings to temporarily or permanently restrain and enjoin the practice of optometry by the following:*
 - (a) *An individual who is not licensed to practice optometry pursuant to this chapter, or who is involved in conduct not specifically exempted from the requirements of this chapter by KRS 320.220; or*
 - (b) *An individual who was previously licensed by the board to practice optometry but is currently practicing optometry in violation of this chapter, regardless of whether the respondent has been convicted of violating the penal provisions thereof.*
- (2) *A petition for injunction filed under subsection (1) of this section may be filed in Franklin Circuit Court, and the board shall not be required to pay any costs or filing fees or furnish any bond in connection therewith.*
 - (a) *In the petition, it shall be sufficient to charge that the respondent on a day certain in a named county engaged in the practice of optometry in violation of this chapter. No showing of damage or injury shall be required.*
 - (b) *Issuance of an injunction shall enjoin any act specified under this chapter and shall remain in place as long as necessary to prevent the unlawful practice of optometry.*
 - (c) *Issuance of an injunction shall not relieve the respondent from being subject to any other proceeding under law provided by this chapter or otherwise.*
 - (d) *Violation of an injunction or restraining order shall be punished as a contempt without the intervention of a jury.*

Section 3. KRS 320.990 is amended to read as follows:

Any person who violates any of the provisions of this chapter shall be guilty of a Class A misdemeanor *and shall pay a fine not to exceed five thousand dollars (\$5,000) per violation.*

Approved March 7, 2003

CHAPTER 26**(SB 152)**

AN ACT relating to the qualifications of members of education governing boards and declaring an emergency.

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

Section 1. KRS 156.040 is amended to read as follows:

- (1) *As used in this section, "relative" means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.*
- (2) *A member of the Kentucky Board of Education shall:*
 - (a) *Be at least thirty (30) years of age;*
 - (b) *Have at least an associate degree or its equivalent;*
 - (c) *Have been a resident of Kentucky for at least three (3) years preceding the member's appointment;*
 - (d) *Not hold a state office requiring the constitutional oath;*
 - (e) *Not be a member of the General Assembly;*
 - (f) *Not hold or discharge the duties of any civil or political office, deputyship, or agency under the city or county of his or her residence;*
 - (g) *Not be directly or indirectly interested in the sale to the Kentucky Board of Education or the Department of Education of books, stationery, or any other property, materials, supplies, equipment, or services for which board or department funds are expended;*
 - (h) *Not have a relative as defined in subsection (1) of this section who is employed by the Department of Education;*
 - (i) *Not have been removed from the board for cause; and*
 - (j) *Not be engaged as an elementary or secondary education professional educator.*
- (3) *Appointments to the board shall be made without reference to occupation, political affiliation, or similar considerations.* ~~The members of the Kentucky Board of Education shall have the same qualifications as school board members, except that members shall be at least thirty (30) years of age and shall have at least an associate degree or its equivalent. Appointments shall be made without reference to occupation, political affiliation, or similar considerations. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator.~~

Section 2. 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 change in residency of a gubernatorial appointee after the date of appointment shall not affect the appointee's ability to serve *or eligibility for reappointment, except an appointee who assumes residency outside the fifty (50) United States shall become immediately ineligible to serve. The Council on Postsecondary Education shall notify the appointee of his or her ineligibility to serve.*
 5. 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, *except a member who assumes residency outside the fifty (50) United States shall become immediately ineligible to serve. The Council on Postsecondary Education shall notify the appointee of his or her ineligibility to serve.*
- (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.

Section 3. Whereas, questions have been raised regarding the interpretation of existing statutory language which states that state board members shall have the same qualifications as local school board members, and whereas, those questions affect the confirmation process for selected appointees who must be confirmed during this legislative session in order to continue to serve, and whereas, this Act removes the ambiguity from the existing statute, 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 10, 2003

CHAPTER 27

(SB 195)

AN ACT relating to the practice of medicine and osteopathy.

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

Section 1. KRS 311.565 is amended to read as follows:

- (1) The board may:
 - (a) Exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy, which shall include but not be limited to promulgation of reasonable administrative regulations enabling the board to regulate the conduct of its licensees;
 - (b) Promulgate reasonable administrative regulations establishing moral, physical, intellectual, educational, scientific, technical, and professional qualifications of applicants for licenses and permits that may be issued by the board;
 - (c) Issue, deny, suspend, limit, restrict, and revoke any licenses or permits that may be issued by the board, and to reprimand or to place licensees on probation, in compliance with the provisions of KRS 311.530 to 311.620;
 - (d) Appoint an executive director and assistant executive directors and fix their compensation. The executive director shall oversee the work of the board, shall be authorized to discharge the duties of the secretary, as provided by KRS 311.530 to 311.620, and shall carry out the duties of the executive director as set forth elsewhere in this chapter;
 - (e) Appoint a general counsel and assistant general counsel and fix their compensation;
 - (f) Appoint investigatory personnel and fix their compensation;
 - (g) Appoint one (1) or more hearing officers, who need not be members of the board, and fix their compensation. Every hearing officer shall be vested with the full and complete power and authority of the board to schedule and conduct hearings on behalf of and in the name of the board on all matters referred for hearing by the board or secretary thereof, including, among other things, proceedings for placing licensees on probation and for limitation, suspension, and revocation of licenses. All administrative hearings conducted by the board, a member of the board, or a hearing officer appointed by the board, shall be conducted in accordance with KRS Chapter 13B. No hearing officer shall be empowered to place any licensee on probation or to issue, refuse, suspend, limit, or revoke any license;
 - (h) Appoint committees of licensees, who need not be board members, to review issues of public or medical interest before the board and to make recommendations to the board on the issues;
 - (i) Promulgate administrative regulations to promote the efficient and fair conduct of disciplinary proceedings;
 - (j) Promulgate a code of conduct governing the practice of medicine and osteopathy, which shall be based upon generally-recognized principles of professional ethical conduct;

- (k) Utilize the services and facilities of professional organizations, and procure and receive the assistance and recommendations of professional organizations in administering KRS 311.530 to 311.620;
 - (l) Make its personnel and facilities available to other governmental entities under mutually agreeable terms and conditions;
 - (m) Issue regular licenses without further testing by endorsement from another state having qualifications and standards at least as high as those of this state or by endorsement from the National Board of Medical Examiners, the National Board of Examiners for Osteopathic Physicians and Surgeons, the National Joint Committee of Preregistration Physician Training Programs, or any approved successors thereof;
 - (n) Issue and renew regular licenses to practice medicine or osteopathy in accordance with KRS 311.530 to 311.620 and any reasonable regulations of the board;
 - (o) Issue and renew, or refuse to issue or renew, or cancel and terminate limited licenses pursuant to administrative regulations promulgated by the board; provided however, no person who held a limited license for institutional practice or general practice as of September 1, 1972, shall be denied the renewal of that limited license for nondisciplinary reasons;
 - (p) Appoint examiners, who need not be members of the board, and employ or contract with the Federation of State Medical Boards of the United States, Inc., or the National Board of Medical Examiners or other organizations, agencies, or individuals to prepare examination questions and grade examination papers;
 - (q) Determine the schools, colleges, universities, institutions, and training acceptable in connection with licensure under KRS 311.530 to 311.620;
 - (r) Prescribe the time, place, method, manner, scope, and content of examinations;
 - (s) Prescribe all forms which it considers appropriate, and require the submission of photographs, fingerprints, and personal history data~~[-, and when deemed appropriate, obtain criminal history information regarding applicants from the National Crime Information Center or comparable sources];~~
 - (t) ***Require a criminal background investigation of all persons applying for licensure at the time of initial application, and at other times at the request of the board for good cause shown, by means of a fingerprint check by the State Police and Federal Bureau of Investigation;***
 - (u) Prescribe and collect reasonable fees and charges for examinations, directories, and the issuance and renewal of licenses and permits; and
 - ~~(v)(u)~~ Impose fines of not greater than five thousand dollars (\$5,000) per violation and require the licensee to reimburse the board for the costs of the administrative proceedings including consultant fees, upon a finding pursuant to disciplinary proceedings that the licensee has violated any provision of KRS 311.595 to 311.597 or duly-promulgated disciplinary regulation of the board.
- (2) The board shall develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by a physician licensed by the board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure that the process does not revictimize the alleged victim or cause harm if a physician is falsely accused.
 - (3) The board, the hearing officer, and investigators hired by the board shall receive 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 procedure in sex offense cases, and effective intervention with victims and offenders.

Approved March 10, 2003

CHAPTER 28

(SB 50)

AN ACT relating to amusement rides and attractions and declaring an emergency.

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

Section 1. KRS 247.232 is amended to read as follows:

As used in KRS ~~247.232 to 247.234 and~~ 247.236:

- (1) "Amusement ride" means any mechanized device or combination of devices which carry passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. "Amusement ride" does not include coin-operated amusement devices, unless designated by administrative regulation promulgated by the Commissioner, and devices regulated by the Federal Aviation Administration, the Kentucky Transportation Cabinet, the federal railroad commission, and vessels under the jurisdiction of the United States Coast Guard or the Kentucky Department of Fish and Wildlife Resources;
- (2) "Amusement attraction" means any building or structure around, over, or through which people may walk, climb, slide, jump, or move that provides amusement, pleasure, thrills, or excitement. "Amusement attraction" does not include tractor pulls, auto or motorcycle events, horse shows, rodeos and other animal shows, games and concessions, nonmechanical playground equipment, such as swings, seesaws, rider-propelled merry-go-rounds, stationary spring-mounted animal devices, and physical fitness equipment, unless designated by administrative regulation promulgated by the Commissioner;
- (3) "Owner" means any person who owns an amusement ride or attraction; and
- (4) "Commissioner" means the Commissioner of Kentucky Department of Agriculture or his authorized representative.

SECTION 2. A NEW SECTION OF KRS 247.232 TO 247.236 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *Every person that operates a for-profit business that provides temporary amusement rides or amusement attractions that are within the same county as, or are within a five (5) mile radius of, a public fair or exposition that is sanctioned by the Department of Agriculture and is operated by a public fair association shall, before beginning operation, pay a license fee of two thousand dollars (\$2,000) per day of operation to the fiscal court of the county in which the temporary amusement rides or amusement attractions are located.*
- (b) *The provisions of paragraph (a) of this subsection shall not apply to temporary amusement rides or amusement attractions that:*
 1. *Operate in connection with the sanctioned public fair or exposition;*
 2. *Operate at a public fair or exposition that is in a contiguous county, is sanctioned by the Department of Agriculture, and is under the authority of a public fair association;*
 3. *Operate under the authority of a religious or educational organization;*
 4. *Operate more than thirty (30) days before or seven (7) days after the sanctioned public fair or exposition;*
 5. *Are clown acts, local festivals, or amusement or entertainment shows with six (6) or fewer kiddie rides; or*
 6. *Operated as a non-profit or charitable organization in this state before the effective date of this Act.*
- (2) *Collection and enforcement for payment of the license fee shall be the sole responsibility of the law enforcement entity acting on behalf of and at the direction of the fiscal court in which the temporary amusement rides or amusement attractions are located.*
- (3) *Failure to pay the license fee upon request of the law enforcement entity shall result in the cessation of operation of the amusement rides or amusement attractions by the operator.*

Section 3. Whereas public fairs and expositions sanctioned by the Department of Agriculture will be conducted before the normal effective date of this legislation, an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved March 10, 2003

CHAPTER 29**(SB 193)**

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 151B IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Technical Education Personnel Board is hereby established to conduct personnel appeals from certified and equivalent employees in the Department for Technical Education under KRS Chapter 151B. Appeals shall be conducted in accordance with the provisions established in KRS Chapter 13B. The board shall be attached to the Department for Technical Education for administrative purposes.*
- (2) *The Kentucky Technical Education Personnel Board shall be composed of five (5) voting members, three (3) of whom shall be selected from employees of agencies within the Cabinet for Workforce Development, except no member shall be an employee within the Office of the Secretary or the Department for Technical Education. The remaining two (2) members shall be teachers employed by the Department for Technical Education's Area Technology Centers. The election of the teacher representatives may be conducted by written ballot, Internet balloting, intranet balloting, or electronic mail. The teacher candidates may be present when the balloting is tallied. All votes cast shall be tallied by an independent entity.*
 - (a) *The Governor shall appoint the two (2) members elected by the teachers employed by the Department for Technical Education's Area Technology Centers and the three (3) members selected from employees of agencies within the Cabinet for Workforce Development. All members shall be appointed by the Governor to four (4) year terms, and each term shall end on June 30 of the fourth year. Terms of new members or reappointed members shall begin on July 1 of the year beginning their term. If a vacancy occurs during a term, the Governor shall appoint a replacement to serve the remainder of the unexpired term within thirty (30) days of the vacancy. The Governor shall select a replacement from the group where the vacancy occurred. The manner of selection for the replacement shall be the same as the manner of the original selection.*
 - (b) *The members shall possess an understanding of the personnel system established in KRS Chapter 151B.*
 - (c) *A chair shall be elected annually by members of the board.*
- (3) *The board shall meet as necessary to comply with time frames for conducting personnel appeals under KRS Chapter 13B and KRS Chapter 151B, and at other times as deemed necessary by the chair of the board. For meetings of the board, a majority of the voting members shall be present to constitute a quorum for the transaction of business.*
- (4) *The Department for Technical Education shall provide administrative, budgetary and support staff services for the board.*
- (5) *Employees of the Cabinet for Workforce Development who serve as members of the board shall not receive additional salary for serving as members on the board. However, upon approval of the commissioner of the Department for Technical Education, board members shall be entitled to reimbursement of actual and necessary expenses incurred while performing their duties as an active member of the board.*
- (6) *During personnel appeals conducted by the board, both parties shall be given the opportunity to have a representative present at each step of the process.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

The Department for Technical Education shall have the management and control of state-operated secondary area vocational education and technology centers, and all programs and services operated in these centers.

Section 3. KRS 11A.010 is amended to read as follows:

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

- (1) "Business" means any corporation, limited liability corporation, partnership, limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding

company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit;

- (2) "Commission" means the Executive Branch Ethics Commission;
- (3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;
- (4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;
- (5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, or door prizes available to the public;
- (6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;
- (7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Occupational Safety and Health Review Commission, the Kentucky Board of Education, ~~the State Board for Adult and Technical Education,~~ the Council on Postsecondary Education, and any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection;
- (8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;
- (9) "Public servant" means:
 - (a) The Governor;
 - (b) The Lieutenant Governor;
 - (c) The Secretary of State;
 - (d) The Attorney General;
 - (e) The Treasurer;
 - (f) The Commissioner of Agriculture;
 - (g) The Auditor of Public Accounts; and
 - (h) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;
- (10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his appointing authority is employed, unless his agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;
- (11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(22) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);
- (12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;

- (13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of this section;
- (14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;
- (15) "Public agency" means any governmental entity;
- (16) "Appointing authority" means the agency head or any person whom he has authorized by law to act on behalf of the agency with respect to employee appointments;
- (17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;
- (18) "Directly involved" means to work on personally or to supervise someone who works on personally; and
- (19) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public.

Section 4. 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. 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.
 - (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.

- (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.
 - (k) Office of Human Resource Management.
- 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 Financial Management.
 - (b) Office of the Controller.
 - (c) Department for Administration.
 - (d) Department of Facilities Management.
 - (e) State Property and Buildings Commission.
 - (f) Kentucky Pollution Abatement Authority.
 - (g) Kentucky Savings Bond Authority.
 - (h) Deferred Compensation Systems.
 - (i) Office of Equal Employment Opportunity Contract Compliance.
 - (j) Office of Capital Plaza Operations.
 - (k) County Officials Compensation Board.
 - (l) Kentucky Employees Retirement Systems.

- (m) Commonwealth Credit Union.
 - (n) State Investment Commission.
 - (o) Kentucky Housing Corporation.
 - (p) Governmental Services Center.
 - (q) Kentucky Local Correctional Facilities Construction Authority.
 - (r) Kentucky Turnpike Authority.
 - (s) Historic Properties Advisory Commission.
 - (t) Kentucky Tobacco Settlement Trust Corporation.
 - (u) 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 Information Technology.
 - (m) Office of Labor-Management Relations and Mediation.
 - (n) Office of General Counsel.
 - (o) Workers' Compensation Funding Commission.
 - (p) 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) ***Kentucky Technical Education Personnel Board*** ~~[State Board for Adult and Technical Education]~~.
 - (g) The State Board for Proprietary Education.
 - (h) The Foundation for Adult Education.
 - (i) Department for Training and Reemployment.
 - (j) Office of General Counsel.
 - (k) Office of Communication Services.
 - (l) Office of Workforce Partnerships.
 - (m) Office of Workforce Analysis and Research.
 - (n) Office of Budget and Administrative Services.
 - (o) Office of Technology Services.
 - (p) Office of Quality and Human Resources.
 - (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.
10. Education Professional Standards Board.

Section 5. KRS 151B.010 is amended to read as follows:

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

- (1) "Appointing authority" means the commissioner for the Department ~~for~~^{of} Technical Education or any person authorized by the commissioner to act on behalf of the department with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. The designation shall be in writing and signed by both the commissioner and the designee.
- (2) "Base salary" means the compensation to which an employee is entitled under the salary schedule adopted pursuant to the provisions of *subsection (3)(i) of Section 9 of this Act* ~~[KRS 151B.035(3)(i)]~~.
- (3) "Board" means the *Kentucky Technical Education Personnel Board established in Section 1 of this Act* ~~[State Board for Adult and Technical Education created by KRS 151B.095]~~.
- (4) "Certified employees" means those employees who fill school or educational assignments requiring the issuance of a certificate. These employees in the Department for Technical Education are subject to personnel administration under this chapter.
- (5) "Class" means a group of positions sufficiently similar as to the duties performed, scope of discretion and responsibility, minimum requirements of training, and other characteristics that the same title and the same schedule of compensation have been or may be applied to each position in the group.
- (6) "Classified" means status as merit system employees under the provisions of KRS Chapter 18A.
- (7) "Continuing status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter which must be preceded by four (4) years of successful employment.
- (8) "Demotion" means a change in an employee's position to another class having less discretion or responsibility.
- (9) "Emergency appointment" means employment for a maximum period of sixty (60) days without regard to the certification process for any position in the Department for Technical Education requiring certification or its equivalent.
- (10) "Employee" means a person regularly employed in a position in the Department for Technical Education for which compensation is on a full-time or part-time basis.
- (11) "Equivalent employees" means those employees with educational backgrounds similar to certified personnel in the administration and conduct of educationally related services. These employees in the Department for Technical Education shall be subject to personnel administration under this chapter.
- (12) "Hearing officer" means a member of the board, a person hired for this purpose by personal service contract, or an assistant Attorney General.
- (13) "Index" means the percentage add-on in a salary structure which compensates for the scope of discretion and responsibility of the position.
- (14) "Initial probation" means the one (1) year period following initial appointment of certified and equivalent employees under KRS 151B.070 which requires special observation and evaluation of a person's work and which must be passed successfully before eligibility for renewal of limited status.
- (15) "Limited status" means employment that is renewable on an annual basis.

- (16) "Penalization" means actions including demotion, dismissal, suspension, involuntary transfer, reduction in rank or pay, or the abridgement or denial of rights granted to state employees or other disciplinary actions.
- (17) "Position" means employment involving duties requiring the services of one (1) person.
- (18) "Promotion" means changing an employee from a position in one (1) class to a position in another class carrying a greater scope of discretion and responsibility.
- (19) "Promotional probation" means the twelve (12) month period of service following the promotion of an employee with continuing status which must be successfully completed in order for the employee to remain in the position.
- (20) "Reemployment" means the rehiring of an employee with continuing status who has been laid off.
- (21) "Reemployment list" means the separate list of names of persons who have been separated from certified or equivalent positions in the Department for Technical Education by reason of layoff. Reemployment lists shall be used as provided by the provisions of KRS 151B.080.
- (22) "Reinstatement" means the restoration of a certified or equivalent employee who has resigned in good standing or who has been ordered reinstated by the board or a court to a position in the former class or to a position of like status and pay.
- (23) "Seasonal employees" means employees employed in a seasonal position. Seasonal position means a position that is temporary, and which coincides with a particular season or seasons of the year.
- (24) "Temporary employee" means an employee appointed to a temporary position. Temporary position means a position that is created for a definite period of time.
- (25) "Transfer" means a movement of any certified or equivalent employee from one position to another having the same salary range and the same level of responsibility.
- (26) "Unclassified employee" means any temporary or seasonal employee and any employee in a policymaking position who shall be exempt from the state service under KRS Chapter 18A and who is employed in the Department for Technical Education under this chapter.

Section 6. 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 **Section 7 of this Act**~~[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 **Kentucky Technical Education Personnel Board established in Section 1 of this Act**~~[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 **Section 14 of this Act**~~[KRS 151B.130];~~
 - (i) The Unemployment Insurance Commission established by KRS 341.110; and
 - (j) The Department for Training and Reemployment created in KRS 151B.260.
- (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. secs. 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. secs. 9201 et seq. The Office of the Secretary of the Cabinet for Workforce Development shall consist of the Offices of General Counsel, Communication Services, Workforce Partnerships, Workforce Analysis and Research, Budget and Administrative Services, Quality and Human Resource Services, and Technology Services. The Office of Budget and Administrative Services shall contain the Division of Fiscal Services. The 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 the secretary's 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 the secretary's office to employees of the cabinet as he or she 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 7. KRS 151B.025 is amended to read as follows:

- (1) The Department for Technical Education is hereby created and shall be attached to the Cabinet for Workforce Development. The department shall consist of a commissioner and those administrative bodies and employees provided or appointed pursuant to law.
- (2) The chief executive officer of the department shall be the commissioner of the Department for Technical Education. ~~The appointment of the commissioner shall be made from a list of three (3) names submitted by the State Board for Adult and Technical Education to the secretary and the Governor.~~ The commissioner shall be appointed *to the unclassified service* by the secretary of the Cabinet for Workforce Development ~~from the list~~ with the approval of the Governor *pursuant to KRS 12.050*. The commissioner shall have general supervision and direction over all functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department. ~~The commissioner shall be responsible for implementing policies adopted by the State Board for Adult and Technical Education.~~ The commissioner may delegate authority to deputies who may then act on his *or her* behalf in performing the duties assigned in this subsection.
- (3) The department shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of state-operated secondary area vocational education and technology centers. When appropriate, the department shall provide education training programs through contracts with private business and industries. These programs may be on a shared cost basis or on a total cost recovery basis.
- (4) The *commissioner of the Department for Technical Education* ~~department~~ shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under *the department's* ~~its~~ jurisdiction.
- (5) Secondary area vocational education and technology centers shall be operated in compliance with program standards established by the Kentucky Board of Education. Principals, counselors, and teaching staff shall meet the qualifications and certification standards for all secondary vocational personnel as established by the Educational Professional Standards Board. In addition to direct appropriations, funds appropriated to support the cost of operating area vocational education and technology centers shall be transferred annually from the secondary funds administered by the Kentucky Department of Education for that purpose.

- (6) The Department for Technical Education, in the operation and management of its schools and the programs at those schools, shall meet all required federal and state standards relating to facilities and personnel qualification; provided, however, that no license or license fee shall be required for any school or program operated by the Department for Technical Education.
- (7) The Department for Technical Education shall be the education agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational-technical or technology education. The department shall involve representatives from all eligible recipient categories in the development of *the required* ~~such~~ plans.
- (8) The department shall be permitted to enter into memorandums of agreement with individuals on a year to year basis to fill positions in hard-to-find teaching specialties. ~~The~~ ~~Such~~ agreements and compensation *for hard-to-find teaching specialties* shall be approved by the *commissioner and* ~~State Board for Adult and Technical Education, but~~ shall not be subject to the provisions of KRS Chapter 45A. All ~~such~~ agreements shall be filed with the secretary of the Finance and Administration Cabinet.
- (9) The commissioner of the Department for Technical Education shall, from time to time, prepare or cause to be prepared, ~~and submit for approval and publication by the State Board for Adult and Technical Education,~~ any bulletins, programs, outlines of courses, placards, and courses of study *deemed* ~~he deems~~ useful in the promotion of the interests of technical and vocational education.
- (10) The *commissioner of the* department shall *be responsible for the preparation of* ~~prepare~~ a biennial budget request, *which* ~~and submit it for review by the State Board for Adult and Technical Education. The budget~~ shall be forwarded to the secretary of the Cabinet for Workforce Development for review and modification.

Section 8. KRS 151B.030 is amended to read as follows:

The Department for Technical Education shall be divided according to the following organizational structure:

- (1) The commissioner of the Department for Technical Education shall appoint a deputy commissioner for technical education pursuant to KRS 12.050 *and assign duties as appropriate*, ~~who shall serve as secretary to the State Board for Adult and Technical Education~~.
- (2) There is hereby created a Division of Administrative Services within the Department for Technical Education. The division shall be headed by a director appointed by the commissioner of the Department for Technical Education *pursuant to KRS 12.050*. The division shall be composed of organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.
- (3) There is hereby created a Division of School Services within the Department for Technical Education. The Division of School Services shall be headed by a director appointed by the commissioner of the Department for Technical Education under KRS 12.050. The Division of School Services shall be composed of ~~such~~ organizational entities as deemed appropriate by the secretary of the Cabinet for Workforce Development as set forth by administrative order.
- (4) The commissioner shall appoint an ombudsman and specify his functions and duties.
- (5) *The Kentucky Technical Education Personnel Board, pursuant to Section 1 of this Act, shall be attached to the department for administrative purposes.*

Section 9. KRS 151B.035 is amended to read as follows:

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

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

promulgated by the **commissioner**~~[state board]~~ and shall be contingent upon confirmation by the commissioner and the board.

- (6) The **commissioner of the Department for Technical Education**~~Board~~ shall promulgate other administrative regulations to govern~~its~~ proceedings which relate to certified and equivalent employees and which shall provide for:
 - (a) The procedures to be utilized by the **Kentucky Technical Education Personnel** Board in the conduct of hearings, consistent with KRS Chapter 13B;
 - (b) Discharge, as provided by this section;
 - (c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of **Section 10 of this Act**~~[KRS 151B.055]~~, for the manner of notification of the employee of the discipline and right of appeal;
 - (d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;
 - (e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices, and central office in the Department for Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor;
 - (f) Reemployment of laid-off employees in accordance with the provisions of this chapter;
 - (g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and
 - (h) Any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A proper and necessary for its enforcement.
- (7) The **commissioner of the Department for Technical Education**~~Board~~ shall make investigations, either on petition of a citizen, taxpayer, interested party, or **as deemed necessary by the commissioner**~~on its own motion~~, concerning the enforcement and effect of KRS 151B.035 to 151B.090, shall require observance of ~~the~~~~its~~ provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make investigation as requested by the General Assembly or the Governor and to report thereon.
- (8) The **commissioner of the Department for Technical Education**~~Board~~ shall promulgate administrative regulations, pursuant to KRS Chapter 13A, for an appeal system for aggrieved certified or equivalent employees.
- (9) The **Kentucky Technical Education Personnel** Board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause. Effective August 15, 2000, appeals from assistants and secretaries in the Department for Technical Education and the Department for Adult Education and Literacy attached to policymaking positions shall be governed by KRS 18A.095~~[effective August 15, 2000]~~. The State Personnel Board, established in KRS 18A.045, shall hear appeals that are pending as of August 15, 2000, from assistants and secretaries attached to policymaking positions in the Department for Technical Education and personnel in the Department for Adult Education and Literacy.
- (10) The **Kentucky Technical Education Personnel** Board may, any statute to the contrary notwithstanding, delegate the conduct of the hearing and the rendition of a recommended order to the full board, to a panel of the board, or to a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final order, based upon the evidence submitted.

- (11) The ***commissioner of the Department for Technical Education***~~Board~~ shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the unclassified service including the preparation and maintenance of a salary schedule and other administrative regulations authorized by this chapter.
- (12) The annual percentage salary increment for all certified and equivalent employees subject to the personnel system established under this chapter shall be at least equal to that funded and provided for other elementary and secondary teachers.
- (13) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees who are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted toward years of experience for calculating benefits and compensation.

Section 10. KRS 151B.055 is amended to read as follows:

- (1) All certified and equivalent employees who previously held merit status under KRS Chapter 18A shall become continuing status employees in the Department for Technical Education.
- (2) Prior to dismissal, an employee with continuing status shall be notified in writing of the intent to dismiss. The notice shall also state:
 - (a) The specific reasons for dismissal including:
 - 1. The statutory or regulatory violation;
 - 2. The specific action or activity on which the intent to dismiss is based;
 - 3. The date, time, and place of the action or activity; and
 - 4. The name of the parties involved; and
 - (b) That the employee has the right to appear personally, or with counsel if counsel has been retained, to reply to the commissioner or a designee.
- (3) The ***Department for Technical Education***~~departments~~ shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the commissioner or a designee. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:
 - (a) The right granted an employee under the provisions of this section relating to pretermination hearings; and
 - (b) The time limits and procedures to be followed by all parties in pretermination hearings.
- (4) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day of receipt of notice, the employee may request to appear, personally or with counsel if counsel is retained, to reply to the commissioner ***of the Department for Technical Education***~~for adult and technical education~~ or a designee.
- (5) The appearance shall be held six (6) working days after receipt of an employee's request to appear before the commissioner or a designee, excluding the day the employee's request is received, unless the employee and the commissioner or a designee agree to a later date.
- (6) No later than five (5) working days after the employee appears before the commissioner or a designee, excluding the day of the appearance, the commissioner or a designee shall:
 - (a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and
 - (b) Notify the employee in writing of the decision.
- (7) If the commissioner or a designee determines that the employee shall be dismissed, the employee shall be notified in writing of:
 - (a) The effective date of dismissal or other penalization;
 - (b) The specific reason for the action, including:

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

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

Section 11. KRS 151B.065 is amended to read as follows:

- (1)
 - (a) When a certified, equivalent, or unclassified employee has been finally ordered reinstated without loss of pay, pursuant to the provisions of KRS 151B.060, the board shall forward a certified copy of the order to the Department for Technical Education. The department shall process proper payment to the employee for the period of suspension, the payment to be made out of the agency's appropriations. If no funds or insufficient funds are available in the agency's appropriations, then payment shall be made out of the judgments section of the general fund of the biennial state budget.
 - (b) Gross moneys which are earned by the employee from other sources during the period of suspension shall set off against the gross sum due the employee, to the extent that the moneys were earned in a number of hours comparable to the length of time the employee would have worked in the previous job where dismissal occurred. The *commissioner of the Department for*~~[State Board for Adult and]~~ Technical Education shall by regulation provide an administrative procedure for determining reasonable earnings to be set off.
 - (c) All other deductions shall be deducted as required by law or by other state regulation.
- (2)
 - (a) Both the employee's and employer's contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System shall be based upon the gross amount due the employee, before set-off or deduction, except for set-off caused by earnings on which employee and employer contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System have been paid.
 - (b) Member and employer contributions paid into the system in which the employee participated after dismissal shall be transferred to the system in which the employee participated prior to illegal dismissal. In the event of a difference in member or employer contribution rates between the retirement system

under which the member was covered prior to dismissal and the retirement system of participation before reinstatement by the board, the member and employer shall pay or receive a refund in order to adjust their respective contribution to the appropriate rate for the system under which the employee would have participated if dismissal had not occurred.

Section 12. KRS 151B.075 is amended to read as follows:

- (1) The ***commissioner of the Department for***~~[State Board for Adult and]~~ Technical Education shall adopt written evaluation procedures for all certified and equivalent employees. The procedures shall be based upon recommendations received from~~[the commissioner for adult education and literacy, the commissioner for technical education, and]~~ a committee composed of equal numbers of teachers, counselors, and administrators.
- (2) Evaluations shall be in writing. An evaluator shall follow all statutory and regulatory provisions for evaluation and shall present and explain all documentation affecting an employee's evaluation, as well as discuss every aspect of performance with the employee at each evaluation. The evaluator shall solicit the employee's opinions and suggestions and shall advise the employee of the measures needed to improve performance.
- (3) Each full-time employee who has completed initial probation, and each part-time employee who works over one hundred (100) hours each month and who has completed initial probation shall be evaluated.
- (4)
 - (a) The first-line supervisor of an employee shall be the evaluator, providing the period of supervision has been for a period of at least ninety (90) calendar days.
 - (b) If the evaluator has supervised an employee for at least ninety (90) calendar days and ceases to be the employee's first-line supervisor after such period of time, the evaluation of the employee shall be at least five (5) working days prior to the day when the responsibility for supervision ceases.
 - (c) If the first-line supervisor ceases to be the supervisor of an employee due to the suspension, demotion, or dismissal of the first-line supervisor, paragraph (b) of this subsection shall not apply.
 - (d) If the first-line supervisor ceases to be an employee's supervisor because the employee transfers, the first-line supervisor shall evaluate the employee prior to transfer, if the period of supervision of the employee is not less than ninety (90) calendar days prior to notification of transfer.
- (5) Teachers and administrators in the state-operated secondary area vocational education and technology centers shall be evaluated in the following categories and appropriate criteria for each category shall be described in the written evaluation procedure:
 - (a) School or classroom management, as appropriate;
 - (b) Job knowledge and skills;
 - (c) Instructional management;
 - (d) Employee conduct; and
 - (e) Professional responsibility.
- (6) All other certified and equivalent staff in the field and in the central office shall be evaluated in the following categories with appropriate criteria described in written evaluation procedures:
 - (a) Job knowledge and skills;
 - (b) Quality of work;
 - (c) Employee conduct; and
 - (d) Professional responsibility.
- (7) There shall be established by the ***commissioner***~~[state board]~~ an evaluation appeals procedure for certified or equivalent personnel in the~~[Department for Adult Education and Literacy and the]~~ Department for Technical Education.
- (8)
 - (a) Within five (5) working days of an evaluation, an employee may request reconsideration of the evaluation by the evaluator.
 - (b) Within five (5) working days of the reconsideration, an employee may:

1. Submit a written response to any evaluation which shall be attached to the evaluation; and
 2. Submit a written request for reconsideration of any evaluation to the second-line supervisor.
- (c) No later than fifteen (15) working days after receipt of the request, the second-line supervisor shall inform the employee and the evaluator in writing of the decision after the second-line supervisor has:
1. Obtained written statements from both the employee and the evaluator; or
 2. Met with the employee and the evaluator; and
 3. Reviewed the evaluation process according to statutory or regulatory requirements as well as the ratings.
- (9) Within thirty (30) days after the employee has received the written decision of the second-line supervisor, the employee may appeal an evaluation to the next level. For the state-operated secondary area vocational education and technology centers, this appeal shall go to the ombudsman for mediation. If not resolved at this level, the employee may file an appeal with the commissioner of the Department for Technical Education who shall make a final ruling. For other employees in ~~the Department for Adult Education and Literacy and~~ the Department for Technical Education, this appeal shall go to the appropriate office head and then to the commissioner.
- (10) If an employee receives an overall unsatisfactory evaluation rating on two (2) successive evaluations, the employee shall be:
- (a) Demoted to a position commensurate with abilities; or
 - (b) Terminated.

Section 13. KRS 151B.125 is amended to read as follows:

- (1) For purposes of any public employment, a high school equivalency diploma or a regular high school diploma obtained through participation in the external diploma program shall be considered equal to a high school diploma issued under the provisions of KRS 158.140.
- (a) A high school equivalency diploma shall be issued without charge upon successfully passing ~~the~~^a test~~s~~ given by the *Department for Adult Education and Literacy approved testing centers in conformance with requirements of the* General Educational Development Testing Service of the American Council on Education ~~or successor organization~~. A ~~five dollar (\$5)~~ fee may be assessed by the *Department for Adult Education and Literacy*~~State Board for Adult and Technical Education~~ for the issuance of a duplicate high school equivalency diploma and for issuance of a duplicate score report. All fees collected for duplicate diplomas and score reports shall be used to support the adult education program.
 - (b) As an alternative to receiving a high school equivalency diploma, persons who are twenty-five (25) years or older may obtain a high school diploma through participation in the external diploma program. The diploma shall be issued upon achieving one hundred percent (100%) mastery on the competencies established by the American Council on Education. The Department for Adult Education and Literacy may enter into agreements with local school districts to confer the high school diploma on successful participants in the external diploma program.
- (2) ~~Sufficient funding shall be provided to comply with the American Council on Education's Commission on Educational Credit and Credentials requirement of an essay as an additional requirement on the GED examination. Funds shall be used for the following purposes:~~
- ~~(a) GED teachers in local districts shall receive training to teach writing skills to adults;~~
 - ~~(b) The Department for Adult Education and Literacy is authorized to contract annually with an institution of higher education or other appropriate agency or entity for scoring the GED examination essay;~~
 - ~~(c) Staff shall be employed and trained by the Department of Adult Education and Literacy to score approximately seventeen thousand (17,000) essays annually as a part of the requirement for the GED high school equivalency examination; and~~
 - ~~(d) Essay readers will be assigned to the Division of Management Services to score essays daily.~~

Section 14. KRS 151B.130 is amended to read as follows:

- (1) There is hereby established a nonprofit foundation to be known as the "Foundation for Adult Education." The purpose of the foundation shall be to supplement public funding for adult training in order to expand existing basic skills training programs.
- (2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used for grants to local education agencies to fund adult basic education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the educational level of their employees as it relates to the GED instruction program.
- (3) The foundation shall be governed by a board of trustees to be appointed by the **secretary of the Cabinet for Workforce Development**~~[State Board for Adult and Technical Education]~~ with responsibility for adult education programs based on recommendations from business, industry, labor, education, and interested citizens. Staff for the board of trustees shall be provided by the **cabinet**~~[agency with the responsibility for administering the adult education program]~~.
- (4) The foundation shall be attached to the office of the secretary of the Cabinet for Workforce Development for administrative purposes.

Section 15. KRS 151B.150 is amended to read as follows:

The **commissioner of the Department for**~~[State Board for Adult and]~~ Technical Education is vested with the authority to carry out the purposes of the program of vocational education and the provisions of the Acts of Congress accepted by KRS 151B.145, and is given all the necessary power and authority in promulgating administrative regulations and administering vocational education and carrying out the provisions of the acts relating thereto.

Section 16. KRS 151B.155 is amended to read as follows:

The State Treasurer is custodian of all money received by the state from the federal government under the federal acts accepted by KRS 151B.145, and **the State Treasurer**~~[he]~~ shall collect the money and pay it out upon the order of the **secretary of the Cabinet for Workforce Development**~~[State Board for Adult and Technical Education]~~.

Section 17. KRS 151B.165 is amended to read as follows:

Tuition and fees for secondary pupils enrolled in the state secondary area vocational education and technology centers operated by the Department for Technical Education shall be free to all residents of Kentucky. The **commissioner of the Department for**~~[State Board for Adult and]~~ Technical Education shall fix the rate of tuition and fees for adults who are enrolled in secondary programs in the state-operated area vocational education and technology centers under its control. Adult students enrolled in full-time postsecondary programs under the jurisdiction of the Kentucky Community and Technical College System that are physically located in an area vocational education or technology center shall pay the tuition as established by the Council on Postsecondary Education and fees as established by the board of regents for the Kentucky Community and Technical College System.

Section 18. KRS 151B.175 is amended to read as follows:

- (1) The commissioner of the Department for Technical Education is authorized to provide medical and accident insurance for students enrolled in the state secondary area technology centers and area vocational education centers. The Department for Technical Education may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in state-operated schools under its jurisdiction. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and such coverage shall be approved by the commissioner of insurance.
- (2) The~~[State Board for Adult and Technical Education, upon the recommendation of the]~~ commissioner of the Department for Technical Education, shall promulgate administrative regulations to implement the medical and accident insurance program. The **commissioner of the Department for**~~[State Board for Adult and]~~ Technical Education may fix the rate of fees for all secondary students, the provisions of **Section 17 of this Act**~~[KRS 151B.165]~~ with respect to fees for secondary students notwithstanding, as **he or she**~~[it]~~ deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.
- (3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the **commissioner of the Department for**~~[State Board for Adult and]~~ Technical Education.

Section 19. KRS 156.740 is amended to read as follows:

- (1) The Interagency Commission on Educational and Job Training Coordination is hereby created. Its membership shall be composed of the following individuals, serving in an ex officio capacity:
 - (a) The chairman of the Council on Postsecondary Education;
 - (b) The president of the Council on Postsecondary Education;
 - (c) The chairman of the Kentucky Board of Education;
 - (d) The commissioner of the Department of Education;
 - ~~(e) The chairman of the State Board for Adult and Technical Education;~~
 - ~~(f) The secretary of the Cabinet for Workforce Development;~~
 - ~~(g) The chairman of the Board for the Kentucky Higher Education Assistance Authority; and~~
 - ~~(h) The president of the Kentucky Community and Technical College System.~~
- (2) Members shall serve by virtue of their office. The chairman of the commission shall be chosen annually by a simple majority vote of the members. A quorum for conducting business shall be one-half (1/2) of the members plus one (1). The chair shall rotate annually, so that no person or agency holds the chairmanship in successive years.

Section 20. KRS 157.060 is amended to read as follows:

The officials of each educational institution and each school district supported in whole or in part from taxation shall make a report to the Kentucky Board of Education or the ***Kentucky Technical Education Personnel Board establish in Section 1 of this Act***~~State Board for Adult, Vocational Education and Vocational Rehabilitation~~ at the close of each scholastic year, showing in detail all funds received from the state and from all other sources during the year, and a detailed statement of all expenditures for the year.

Section 21. KRS 161.011 is amended to read as follows:

- (1) (a) "Classified employee" means an employee of a local district who is not required to have certification for his position as provided in KRS 161.020; and
 - (b) "Seniority" means total continuous months of service in the local school district, including all approved paid and unpaid leave.
- (2) The commissioner of education shall establish by January, 1992, job classifications and minimum qualifications for local district classified employment positions which shall be effective July 1, 1992. After June 30, 1992, no person shall be eligible to be a classified employee or receive salary for services rendered in that position unless he holds the qualifications for the position as established by the commissioner of education.
- (3) No person who is initially hired after July 13, 1990, shall be eligible to hold the position of a classified employee or receive salary for services rendered in such position, unless he holds at least a high school diploma or high school certificate of completion or GED certificate, or he shows progress toward obtaining a GED. To show progress toward obtaining a GED, a person shall be enrolled in a GED program and be progressing satisfactorily through the program, as defined by administrative regulations ***promulgated***~~adopted~~ by the ***commissioner of the Department for Adult Education and Literacy***~~State Board for Adult and Technical Education~~.
- (4) Local school districts shall encourage classified employees who were initially hired before July 13, 1990, and who do not have a high school diploma or a GED certificate to enroll in a program to obtain a GED.
- (5) Local districts shall enter into written contracts with classified employees. Contracts with classified employees shall be renewed annually except contracts with the following employees:
 - (a) An employee who has not completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract will not be renewed for the subsequent school year. Upon written request by the employee, within ten (10) days of the receipt of the notice of nonrenewal, the superintendent shall provide, in a timely manner, written reasons for the nonrenewal.

- (b) An employee who has completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract is not being renewed due to one (1) or more of the reasons described in subsection (7) of this section. Upon written request within ten (10) days of the receipt of the notice of nonrenewal, the employee shall be provided with a specific and complete written statement of the grounds upon which the nonrenewal is based. The employee shall have ten (10) days to respond in writing to the grounds for nonrenewal.
- (6) Local districts shall provide in contracts with classified employees of family resource and youth services centers the same rate of salary adjustment as provided for other local board of education employees in the same classification.
- (7) Nothing in this section shall prevent a superintendent from terminating a classified employee for incompetency, neglect of duty, insubordination, inefficiency, misconduct, immorality, or other reasonable grounds which are specifically contained in board policy.
- (8) The superintendent shall have full authority to make a reduction in force due to reductions in funding, enrollment, or changes in the district or school boundaries, or other compelling reasons as determined by the superintendent.
 - (a) When a reduction of force is necessary, the superintendent shall, within each job classification affected, reduce classified employees on the basis of seniority and qualifications with those employees who have less than four (4) years of continuous active service being reduced first.
 - (b) If it becomes necessary to reduce employees who have more than four (4) years of continuous active service, the superintendent shall make reductions based upon seniority and qualifications within each job classification affected.
 - (c) Employees with more than four (4) years of continuous active service shall have the right of recall positions if positions become available for which they are qualified. Recall shall be done according to seniority with restoration of primary benefits, including all accumulated sick leave and appropriate rank and step on the current salary schedule based on the total number of years of service in the district.
- (9) Local school boards shall develop and provide to all classified employees written policies which shall include, but not be limited to:
 - (a) Terms and conditions of employment;
 - (b) Identification and documentation of fringe benefits, employee rights, and procedures for the reduction or laying off of employees; and
 - (c) Discipline guidelines and procedures that satisfy due process requirements.
- (10) Local school boards shall maintain a registry of all vacant classified employee positions that is available for public inspection in a location determined by the superintendent and make copies available at cost to interested parties. If financially feasible, local school boards may provide training opportunities for classified employees focusing on topics to include, but not be limited to, suicide prevention, abuse recognition, and cardiopulmonary resuscitation (CPR).
- (11) The evaluation of the local board policies required for classified personnel as set out in this section shall be subject to review by the Department of Education while it is conducting district management audits pursuant to KRS 158.785.

Section 22. The following KRS section are repealed:

151B.095 State Board for Adult and Technical Education.

151B.100 Powers of board.

151B.105 Meetings of board.

151B.110 Board to manage state-operated secondary area vocational education and technology centers.

Section 23. The General Assembly hereby confirms Executive Order 2002-903, dated July 30, 2002, to the extent that it is not otherwise confirmed or superseded by this Act.

Approved March 10, 2003

CHAPTER 30

(HB 124)

AN ACT relating to motor carrier dimension limits.

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

Section 1. KRS 189.222 is amended to read as follows:

- (1) The secretary of the Transportation Cabinet in respect to highways which are a part of the state-maintained system, by official order, may increase on designated highways or portions thereof, the maximum height, length, and gross weight prescribed in KRS 189.221, if in the opinion of the secretary, the increased height, length, and weight designated by him are justified by the strength, safety, and durability of the designated highways, and the highways do not appear susceptible to unreasonable and unusual damage by reason of the increases and the secretary may establish reasonable classification of state maintained roads and fix a different maximum for each classification. Any increase in the height, length, or width of any motor truck or tractor semitrailer combinations or any other vehicle combinations including any part of the body or load or designation of highways to be used by the vehicles, shall not, in any way, exceed the federal law or regulations thereunder or jeopardize the allotment or qualification for federal aid funds of the Commonwealth of Kentucky or exceed the following dimensions and weights:
 - (a) Height, thirteen and one-half (13-1/2) feet;
 - (b) Length, semitrailers, fifty-three (53) feet; trailers, twenty-eight (28) feet; motor trucks, forty-five (45) feet, not to exceed two (2) trailers per truck tractor;
 - (c) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. No single axle in any arrangement shall exceed twenty thousand (20,000) pounds or seven hundred (700) pounds per inch of the aggregate width of all the tires on a single axle, whichever is less. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds;
 - (d) Except on the interstate highway system, a tolerance of not more than five percent (5%) per axle load shall be permitted before a carrier is deemed to have violated paragraph (c) of this subsection. The gross weight shall not exceed eighty thousand (80,000) pounds;
 - (e) ***Excepted as provided for in paragraph (f) of this subsection***, truck tractor, semitrailer and trailer combinations, and other vehicle combinations may be operated only on the interstate system and on those parts of the federal aid highway system and the state-maintained system which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same;
 - (f) ***A vehicle or combination of vehicles that is one hundred two (102) inches wide or less and has a gross weight of not more than eighty thousand (80,000) pounds may be driven on any state highway, for a distance of up to fifteen (15) miles from an interstate or parkway exit.***
- (2) Vehicles exclusively engaged in the transportation of motor vehicles, unmanufactured tobacco, or unmanufactured tobacco products may, on those highways which are a part of the state-maintained system and which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same, attain the maximum lengths as provided by subsection (1)(b) of this section, excluding the usual and ordinary bumper overhang of the transported vehicles;
- (3) Vehicles engaged exclusively in the transportation of farm or primary forestry products and registered under KRS 186.050(4) or 186.050(9) and vehicles engaged exclusively in the transportation of ready-mixed concrete shall be excluded from the axle weight provisions, except on interstate highways, and subject only to total gross weight provisions.
- (4) Vehicles registered pursuant to KRS 186.050(3)(b) and engaged in the transportation of primary forest products, including, but not limited to, vehicles transporting sawdust, wood chips, bark, slabs, or logs, may

exceed the axle, or gross weight provisions as set forth in accordance with subsection (1)(c) of this section by a weight tolerance of ten percent (10%), except on the interstate highway system.

- (5) Vehicles designed for and engaged exclusively in the collection and hauling of refuse and registered under KRS 186.050(3)(b) shall be excluded from the axle weight provisions, except when in operation on the federal interstate system, and subject only to total gross weight provisions.
- (6) The secretary of the Transportation Cabinet may by order increase the weight and height limits prescribed by this chapter for motor vehicles while being operated exclusively on roads or highways being constructed, reconstructed, or repaired under contract with the Transportation Cabinet by the contractor or subcontractor, agent, or employee thereof.
- (7) Notwithstanding any other provisions of this chapter, the secretary of the Transportation Cabinet shall not authorize the operation of any vehicle or combination of vehicles, upon any part of the federal aid highway system or state parkway system, which exceeds the following dimensions and weights:
 - (a) Width, one hundred two (102) inches, including any part of the body or load;
 - (b) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds. If any federal law or laws or regulations thereunder are hereafter enacted authorizing weights and dimensions in excess of those set out in paragraphs (a) and (b) of this subsection, the secretary of the Transportation Cabinet may by official order increase the maximum weights and dimensions but the increased weights and dimensions shall not exceed those set out in this section.
- (8) Except on the interstate highway system, vehicles engaged exclusively in the transportation of crushed stone, fill dirt and rock, soil, bulk sand, coal, phosphate muck, asphalt, concrete, solid waste, tankage or animal residues, livestock, and agricultural products shall be permitted a tolerance of ten percent (10%) of the axle weight provisions before a carrier is deemed to have violated paragraph (1)(c) of this section.
- (9) The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A, relating to the implementation of 23 C.F.R. Part 658 as it relates to state-maintained or locally-maintained roads. The enforcement of the provisions of KRS 189.221 and this section on locally-maintained roads shall not be the responsibility of the law enforcement officers of the Transportation Cabinet, unless the head of the corresponding local government unit has requested, in writing, enforcement assistance from the Transportation Cabinet.

Section 2. KRS 189.270 is amended to read as follows:

- (1) The department may issue permits for the operation of motor vehicles, manufactured homes, recreational vehicles, boats, or any other vehicle transporting a nondivisible load, whose gross weight including load, height, width, or length exceeds the limits prescribed by this chapter or which in other respects fail to comply with the requirements of this chapter. Permits may be issued by the department for stated periods, special purposes, and unusual conditions, and upon terms in the interest of public safety and the preservation of the highways as the department may require.
- (2) Except as provided in subsection (7) of this section, the department may, at the request of an applicant, issue a single-trip permit regardless of the type of vehicle or equipment being transported that exceeds the weight or dimension limits established by this chapter if the load being transported is a nondivisible load. A single-trip permit shall cost sixty dollars (\$60) for each overweight or overdimensional permit requested.
- (3) Except as provided in subsection (7) of this section, the department may, at the request of an applicant, issue an annual permit regardless of the type of vehicle or equipment being transported that exceeds the weight or dimension limits established by this chapter if the load being transported is a nondivisible load. The vehicle shall not exceed sixteen (16) feet in width exclusive of usual and ordinary overhang, one hundred twenty (120) feet in length including a towing vehicle and trailer combination, thirteen (13) feet six (6) inches in height, or **one hundred sixty thousand (160,000)**~~one hundred twenty thousand (120,000)~~ pounds. Except as provided in subsections (4) and (7) of this section, an annual permit for loads less than fourteen (14) feet in width shall

cost two hundred fifty dollars (\$250). An annual permit for loads exceeding fourteen (14) feet in width shall cost five hundred dollars (\$500).

- (4) An annual permit to transport farm equipment less than fourteen (14) feet in width shall cost eighty dollars (\$80). An annual permit to transport farm equipment that exceeds fourteen (14) feet in width from a dealership to a farm or from a farm to a dealership shall cost one hundred fifty dollars (\$150).
- (5) Permits issued under this section shall be for nondivisible loads and shall be valid statewide; however, the department may, as a condition of issuing an annual or single-trip permit, limit the overweight or overdimensional vehicle to specified routes, exclude certain highways, or even cancel an applicant's permit if an unreasonable risk of accident or an unreasonable impedance of the flow of traffic would result from the presence of the overweight or overdimensional vehicle. A person who applies for, and accepts, a permit issued under this section is acknowledging that the Kentucky Transportation Cabinet is not guaranteeing safe passage of vehicles by issuing the permit. A person who applies for, and accepts, a permit issued under this section agrees to measure all clearances of highway structures, both laterally and vertically, prior to passage of the person's vehicles along the routes specified in the permit. A person who applies for, and accepts, a permit issued under this section is classified as a bare licensee whose duty is to assume sole risk involved in using Kentucky's highways without warranty of accuracy.
- (6) ***Subject to the limitations of subsection (11) of this section,*** the department shall promulgate administrative regulations under KRS Chapter 13A to establish requirements for escort vehicles, safety markings, and other safety restrictions governing the operation of an overweight or overdimensional vehicle. The department shall provide each applicant for an annual or single-trip permit issued under this section a copy of all restrictions associated with the overweight or overdimensional permit at no charge to the applicant. The department shall be prohibited from raising the permit fee established in subsections (2) and (3) of this section by levying additional fees for an overweight or overdimensional permit through the administrative regulation process.
- (7) The cabinet shall not issue an annual permit under this section if the person applying for the permit is eligible for an annual permit issued under KRS 189.2715 or 189.2717.
- (8) The department may require the applicant to give bond, with approved surety, to indemnify the state or counties against damage to highways or bridges resulting from use by the applicant. The operation of vehicles in accordance with the terms of the permit issued under this section shall not constitute a violation of this chapter if the operator has the permit, or an authenticated copy of it, in his possession.
- (9) Any person transporting a parade float which exceeds the dimensional limits on a highway over which it is transported shall be required to obtain a permit as required in subsection (2) of this section. If the float is being used in conjunction with a parade to be held within the boundaries of the Commonwealth, a fee shall not be assessed by the department to issue the permit.
- (10) A person shall not operate any vehicle in violation of the terms of the permit issued under this section.
- (11) (a) ***The cabinet shall not promulgate administrative regulations pursuant to this section that restrict the time or days of the week when a permit holder may operate on the highway, except that travel may be limited from 6 a.m. to 9 a.m. and 3 p.m. to 6 p.m. Monday through Friday.***
 (b) ***The cabinet shall allow a permit holder who has obtained a permit to transport equipment to a work site to return to the permit holder's place of business immediately after work is completed at the job site, subject to the limitations of paragraph (a) of this subsection.***

Approved March 10, 2003

CHAPTER 31

(SB 179)

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. 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.
 - (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.
 - (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.

- (k) Office of Human Resource Management.
- 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 Financial Management.
 - (b) Office of the Controller.
 - (c) Department for Administration.
 - (d) Department of Facilities Management.
 - (e) State Property and Buildings Commission.
 - (f) Kentucky Pollution Abatement Authority.
 - (g) Kentucky Savings Bond Authority.
 - (h) Deferred Compensation Systems.
 - (i) Office of Equal Employment Opportunity Contract Compliance.
 - (j) Office of Capital Plaza Operations.
 - (k) County Officials Compensation Board.
 - (l) Kentucky Employees Retirement Systems.
 - (m) Commonwealth Credit Union.
 - (n) State Investment Commission.
 - (o) Kentucky Housing Corporation.
 - (p) Governmental Services Center.
 - (q) Kentucky Local Correctional Facilities Construction Authority.
 - (r) Kentucky Turnpike Authority.
 - (s) Historic Properties Advisory Commission.
 - (t) Kentucky Tobacco Settlement Trust Corporation.
 - (u) Eastern Kentucky Exposition Center Corporation.
 - (v) ***State Board for Proprietary Education.***
- 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) Office of General Counsel.
 - (o) Workers' Compensation Funding Commission.
 - (p) 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.~~

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- ~~(h)}~~ The Foundation for Adult Education.
 - ~~(h)}~~~~(i)}~~ Department for Training and Reemployment.
 - ~~(i)}~~~~(j)}~~ Office of General Counsel.
 - ~~(j)}~~~~(k)}~~ Office of Communication Services.
 - ~~(k)}~~~~(l)}~~ Office of Workforce Partnerships.
 - ~~(l)}~~~~(m)}~~ Office of Workforce Analysis and Research.
 - ~~(m)}~~~~(n)}~~ Office of Budget and Administrative Services.
 - ~~(n)}~~~~(o)}~~ Office of Technology Services.
 - ~~(o)}~~~~(p)}~~ Office of Quality and Human Resources.
 - ~~(p)}~~~~(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.
 - 10. Education Professional Standards Board.

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 Training and Reemployment created in KRS 151B.260.
- (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. secs. 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. secs. 9201 et seq. The Office of the Secretary of the Cabinet for Workforce Development shall consist of the Offices of General Counsel, Communication Services, Workforce Partnerships, Workforce Analysis and Research, Budget and Administrative Services, Quality and Human Resource Services, and Technology Services. The Office of Budget and Administrative Services shall contain the Division of Fiscal Services. The 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 the secretary's 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 the secretary's office to employees of the cabinet as he or she 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 165A.340 is amended to read as follows:

- (1) There is hereby established a State Board for Proprietary Education which shall be attached to the Cabinet for ***Finance and Administration, Department for Administration, Division of Occupations and Professions***~~[Workforce Development]~~ and shall consist of eleven (11) voting members to be appointed by the Governor as follows:
- (a) Three (3) members ***representative of privately-owned educational institutions*** appointed from a list of seven (7) names submitted by the Kentucky Association of Career Colleges and Schools;

- (b) **Three (3)**~~[Two (2)]~~ members representative of technical schools appointed from a list of seven (7) names submitted by the Kentucky Association of Career Colleges and Schools; and
 - (c) **Five (5)**~~[Six (6)]~~ members representative of the public at large.
- (2) ***The term of each member shall be four (4) years or until a successor is appointed. If a vacancy occurs on the board, a new member shall be appointed to serve the remainder of the unexpired term***~~[Upon expiration of each of the respective terms of the members first appointed, the term of each successor shall be four (4) years or until his successor shall be appointed and qualified. At the time of the original appointments, the terms of board members will be staggered so that, as nearly as mathematically possible, they fall into three (3) classes. The first class will have two (2) year terms; the second class will have three (3) year terms; and the third class will have four (4) year terms].~~
- (3) ***The director of the Division of Occupations and Professions in the Finance and Administration Cabinet shall serve as executive director of the board.*** Members of the board shall annually elect one (1) of their number as chairman~~[and the board may employ and fix the compensation of the director and employ and fix the compensation of all personnel required by it for the administration of the provisions of this chapter].~~ The board may make all rules and regulations, including the establishment of fees and other charges consistent with the provisions of this chapter, as may be necessary to carry out the provisions and purposes of this chapter.
- (4) The board shall hold meetings at least four (4) times a year and as frequently as it deems necessary at the times and places as the board may designate and the majority of the members shall constitute a quorum.
- (5) The board may sue and be sued in its own name.
- (6) The members of the board shall receive one hundred dollars (\$100) per day for each meeting attended and may be paid their travel and other expenses while employed upon the business of the board.
- (7) The board shall administer the provisions of law pertaining to the conduct, operation, maintenance, and establishment of proprietary education institutions, and the activities of agents thereof when acting as such.
- (8) The board shall have the power to subpoena witnesses and school records as it deems necessary.

Section 4. The General Assembly confirms Executive Order 2002-904, issued July 30, 2002, to the extent that it is not otherwise confirmed or superseded by Sections 1 to 3 of this Act.

Approved March 10, 2003

CHAPTER 32

(SJR 18)

A JOINT RESOLUTION petitioning the United States Congress to propose an Amendment to the Constitution of the United States, for submission to the several States, to allow the people of the United States and the several States the freedom to exercise their religion in public places.

WHEREAS, the Ten Commandments appear over the bench where the United States Supreme Court Justices sit, thus showing the source from whence our laws and the government power of the state are derived; and

WHEREAS, America's colonial governments adopted the Ten Commandments not as an object of worship or an icon, but as the basis for their civil and criminal law, as illustrated on April 3, 1644, when the New Haven Colony Charter was adopted establishing that: "the judicial laws of God, as they were delivered to Moses be a rule to all courts in this jurisdiction"; and

WHEREAS, when signing the Declaration of Independence on August 2, 1776, Samuel Adams, the "Father of the Revolution" emphasized its Biblical presuppositions: "We have this day restored the Sovereign to whom all men ought to be obedient. He reigns in heaven and from the rising to the setting of the sun, let His kingdom come"; and

WHEREAS, on August 20, 1789, Congressman Fisher Ames from Massachusetts proposed the wording of the First Amendment which was adopted by the House of Representatives in the first session of the Congress of the United States; and his writings clearly demonstrate that the Framers never intended the First Amendment to be so interpreted as to remove the Bible from the public buildings: "We are spending less time in the classroom on the Bible which should be the principal text in our schools ..."; and

WHEREAS, in a letter dated August 18, 1790, President George Washington wrote to the Hebrew Congregation in Newport, Rhode Island, "All possess alike liberty of conscience and immunities of citizenship... May the children of the stock of Abraham, who dwell in this land, continue to merit and enjoy the good will of the other inhabitants; while every one shall sit in safety under his own vine and fig tree, and there shall be none to make him afraid"; and

WHEREAS, in his "Farewell Address" of September 19, 1796, George Washington pointed out the connection between the faith of the Nation and its political prosperity when he declared: "Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports ...", and

WHEREAS, acknowledging the Bible as an integral part of the fabric of our society on September 11, 1777, the Continental Congress adopted a resolution to import 20,000 Bibles from Holland and Scotland, as the colonies were at war with England; and

WHEREAS, on May 29, 1845, the day before his death, President Andrew Jackson stated: "My lamp of life is nearly out, and the last glimmer has come. I am ready to depart when called. The Bible is true. The principles and statutes of the Holy Book have been the rule of my life, and I have tried to conform to its spirit as nearly as possible. Upon that sacred volume I rest my hope for eternal salvation, through the merits and blood of our blessed Lord and Savior, Jesus Christ"; and

WHEREAS, President John Quincy Adams, the sixth President of the United States, wrote concerning the civil function of the Mosaic law: "The law given from Sinai was a civil and municipal as well as a moral and religious code: it contained many statutes ...of universal application – laws essential to the existence of men in society and most of which have been enacted by every nation which ever professed any code of laws"; and

WHEREAS, in a June, 1778 letter to her son, John Quincy Adams, Abigail Adams reinforced noble values and a sense of ultimate accountability to God which she believed to be the foundation of true greatness: "Great learning and superior abilities, should you ever possess them, will be of little value and small estimation, unless virtue, honor, truth, and integrity are added to them. Adhere to those religious sentiments and principles which were early instilled into your mind, and remember that you are accountable to your Maker for all your words and actions"; and

WHEREAS, on February 29, 1892, the United States Supreme Court, in a unanimous decision, which has never been overruled, cited sixty-six organic authorities which show the Bible's singular influence on America: "There is no dissonance in these declarations. There is a universal language pervading them all having one meaning: they affirm and reaffirm that this is a religious nation. These are not individual sayings, declarations of private persons; they are organic utterances; they speak the voice of the entire group. These authorities were collected to support the historical conclusion that 'no purpose of action against religion can be imputed to any legislation, state or nation, because this is a religious people. This is historically true. From the discovery of this continent to the present hour, there is a single voice making this affirmation ... we find everywhere a clear recognition of the same truth ...this is a Christian nation' "; and

WHEREAS, on May 7, 1911, President Woodrow Wilson, addressing the Tercentenary Celebration of the Translation of the Bible into the English language, stated, "Moreover, the Bible does what is so invaluable in human life – it classifies moral values. It appraises us that men are not judged according to their wits, but according to their characters – that the last of every man's reputation is his truthfulness, his squaring his conduct with the standards that he knew to be the standards of purity and rectitude. How many a man we appraise, ladies and gentlemen, as great today whom we do not admire as noble! A man may have great power and small character"; and "The Bible has had a critical impact upon the development of Western civilization. Western literature, art and music are filled with images and ideas that can be traced to its pages. More important, our moral tradition has been shaped by the laws and teachings it contains. It was a biblical view of man – one affirming the dignity and worth of the human person, made in the image of our Creator – that inspired the principles upon which the United States is founded. President Jackson called the Bible 'the rock on which our republic rests' because he knew that it shaped the Founding Fathers' concept of individual liberty and their vision of a free and just society. The Bible has not only influenced the development of our Nation's values and institutions, but also enriched the daily lives of millions of men and women who have looked to it for comfort, hope and guidance. On the American frontier, the Bible was often the only book a family owned. For those pioneers living far from any church or school, it served both as a source of religious instruction and as the primary text from which children learned to read. The historical speeches of Abraham Lincoln and Dr. Martin Luther King, Jr. provide compelling evidence of the role Scripture played in shaping the struggle against slavery and discrimination. Today the Bible continues to give courage and direction to those who seek truth and righteousness. In recognizing its enduring value, we recall the words of the prophet Isaiah, who declared 'The grass withereth, the

flower fade; but the word of our God shall stand forever.' Containing revelations of God's intervention in human history, the Bible offers moving testimony to His love for mankind. Treasuring the Bible as a source of knowledge and inspiration, President Abraham Lincoln called this Great Book 'the best gift God has given to man.' President Lincoln believed that the Bible not only reveals the infinite goodness of our Creator, but also reminds us of our worth as individuals and our responsibilities toward one another"; and

WHEREAS, the First Amendment in the Bill of Rights states, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances"; and

WHEREAS, recent court rulings have prevented the displaying of the Ten Commandments and have been the cause of the removal of these documents from public buildings; and

WHEREAS, eighty percent of the people are in favor of displaying the Ten Commandments in public places; and

WHEREAS, the General Assembly finds the Ten Commandments to be the precedent legal code of the Commonwealth which has provided the foundation for many of the civil and criminal statutes enacted into law throughout the history of the Commonwealth; and

WHEREAS, under Article V of the Constitution of the United States, Amendments to said Constitution may be proposed by the United States Congress whenever two-thirds of both chambers deem it necessary;

NOW, THEREFORE,

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

Section 1. The General Assembly of the Commonwealth of Kentucky, a majority of all members of the chambers voting separately to concur herein, hereby petitions the United States Congress to propose an Amendment to the Constitution of the United States, for submission to the several States for ratification, to allow the people of the United States and the several States the freedom to exercise their religion in public places.

Section 2. The text of the proposed Amendment to the Constitution of the United States should read substantially as follows:

"Nothing in the Constitution shall be construed to prohibit or otherwise limit the practice of individual or group prayer, the reading or the posting of the Ten Commandments, the recital of the Pledge of Allegiance, and the display of the motto 'In God We Trust' or similar phrases from historical documents referencing God in any public place, including a school; nor shall it require any person to join in prayer or other religious activity."

Section 3. Certified copies of this joint resolution shall be transmitted by the Secretary of State to the Administrator of General Services of the United States, to the President of the United States Senate, to the Speaker of the House of Representatives of the United States, to each member of the Commonwealth's delegation to the Congress of the United States, and to the presiding officer of each house of each state legislature of the several States.

Approved March 12, 2003

CHAPTER 33

(SB 75)

AN ACT relating to payment of alcoholic beverage license fees.

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

Section 1. KRS 243.380 is amended to read as follows:

- (1) Applications for licenses provided for in KRS 243.030 and 243.050 shall be made to the administrator of the distilled spirits unit. Applications for licenses provided for in KRS 243.040 shall be made to the administrator of the malt beverage unit.
- (2) All applications shall be on forms furnished by the department. They shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought as the board by regulation requires. Each application shall be accompanied by **payment. Payment of the license fee may be by** ~~certified check, cash, or~~ a postal or express money order, **or any other method of payment approved in writing by both the Finance and Administration Cabinet and the Office of the State Treasurer** ~~for the~~

~~license fee~~. Promptly upon receipt thereof the board shall pay the same into the State Treasury, giving the Revenue Cabinet copies of the pay-in vouchers and such other supporting data as the Revenue Cabinet may require for revenue control purposes.

Approved March 12, 2003

CHAPTER 34

(SB 63)

AN ACT changing the classification of the City of Goshen, in Oldham County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Goshen, in Oldham 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 Goshen, in Oldham County, is transferred from the sixth to the fifth class of cities.

Approved March 12, 2003

CHAPTER 35

(SB 154)

AN ACT relating to the elementary school curriculum.

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:

- (1) (a) *The General Assembly finds and declares that the integration of the arts and foreign languages into the school curriculum benefits students by increasing their motivation to learn; improves attendance; fosters multicultural understanding; and develops neurological cognitive potential through higher order thinking skills, creativity, and problem solving. Further, the General Assembly finds and declares that arts and foreign language education can renew and invigorate faculty and can foster greater parent and community participation and support.*
- (b) *The General Assembly notes that it created a system of public education that allows and assists all students to acquire certain capacities provided under KRS 158.645, including communication skills necessary to function in a complex and changing civilization and sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage.*
- (c) *The General Assembly further notes that its goals for public schools under KRS 158.6451 include: to develop students' abilities to use basic communication and mathematics skills for purposes and situations they will encounter throughout their lives; to apply core concepts and principles from mathematics, the sciences, the arts, the humanities, and social studies; and to connect and integrate experiences and new knowledge from all subject matter fields with what they have previously learned and build on past learning experiences to acquire new information through various sources.*
- (2) *It is the intent of the General Assembly in enacting Section 2 of this Act to address the findings and declarations set out in subsection (1) of this section.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *The Department of Education shall establish a program that promotes the integration of the arts and foreign languages in the elementary school program. A school shall submit an application through the district superintendent, with the agreement of the school council or of the principal, if a council does not exist. The department shall award a grant to at least one (1) school per region based on the quality of the application in meeting the criteria established in subsection (2) of this section. Special consideration shall be given, but not limited to, a school that does not have an existing comprehensive arts and foreign language program.*

- (2) *School programs under subsection (1) of this section shall include, but not be limited to, the following components:*
- (a) *Instruction in each of the four (4) disciplines of dance, drama, music, and the visual arts that includes the core content skills and knowledge taught in a sequential manner and includes all students in the elementary school;*
 - (b) *Intense instruction in at least one (1) foreign language that includes skills and knowledge related to communicative language and culture and includes all students in the elementary school;*
 - (c) *Integration of arts and foreign language instruction across the curriculum;*
 - (d) *Coordination of the programs by teachers with appropriate arts and foreign language certification;*
 - (e) *Professional development for teachers and administrators designed to facilitate the effective teaching of arts and foreign languages;*
 - (f) *An effective monitoring and evaluation system that includes student performance assessment;*
 - (g) *Partnerships with parents, local cultural agencies, individual artists, and native speakers of the foreign language who work in collaboration with classroom teachers;*
 - (h) *Support from the local school board, the school council, and teachers; and*
 - (i) *Student attendance at one (1) or more live performance or visual art exhibition each school year.*
- (3) *The Department of Education shall report annually by July 1 of each year on the implementation of the program to the Governor and the Legislative Research Commission.*

Approved March 12, 2003

CHAPTER 36

(SB 114)

AN ACT relating to qualifications for drug and alcohol counselors.

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

Section 1. KRS 309.083 is amended to read as follows:

An applicant for certification as an alcohol and drug counselor shall pay the board the initial fee for certification, and shall:

- (1) Be at least eighteen (18) years of age;
- (2) Have obtained a baccalaureate degree, ~~except as provided in KRS 309.084;~~
- (3) ~~Have obtained a master's degree if required by KRS 309.084;~~
- ~~(4)~~ Have completed six thousand (6,000) hours of board-approved experience working with alcohol or drug dependent persons, three hundred (300) hours of which shall have been under the direct supervision of a certified alcohol and drug counselor who has at least two (2) years of post-certification experience;
- ~~(4)(5)~~ Have completed at least two hundred seventy (270) classroom hours of board-approved curriculum;
- ~~(5)(6)~~ Have passed a written examination that has been approved by the International Certification Reciprocity Consortium on Alcoholism and Drug Abuse and an oral examination approved by the board;
- ~~(6)(7)~~ Have signed an agreement to abide by the standards of practice and code of ethics approved by the board;
- ~~(7)(8)~~ Have completed at least six (6) hours of ethics training and two (2) hours of training in the transmission, control, treatment, and prevention of the human immunodeficiency virus; and
- ~~(8)(9)~~ Have submitted two (2) letters of reference from certified alcohol and drug counselors.

Section 2. KRS 309.084 is amended to read as follows:

- (1) Upon application made prior to January 1, 1997, and payment of the initial certification fee, any person who is certified by the Kentucky Certification Board of Chemical Dependency Professionals prior to January 1, 1997, shall be deemed to be certified pursuant to KRS 309.080 to 309.089.
- (2) After July 15, 1996, the board shall certify any applicant who meets all of the requirements set out in KRS 309.083, pays the fees established by the board, and is not disqualified pursuant to KRS 309.086.
- (3) Upon application and payment of the prescribed fees, any person who is and has been approved by the Kentucky Certification Board of Chemical Dependency Professionals as a trainee, prior to July 15, 1996, shall be certified without meeting the requirement of KRS 309.083(2) if he satisfies all the other requirements of that section, prior to December 31, 1997.
- ~~{(4) After January 1, 2005, a requirement for certification shall include a master's degree in addictions or a related field as determined by the board by promulgation of an administrative regulation. KRS 309.083(2) shall not apply after December 31, 2004.}~~

Approved March 12, 2003

CHAPTER 37

(SB 121)

AN ACT relating to alcoholic beverages.

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

Section 1. KRS 243.200 is amended to read as follows:

- (1) A distilled spirits and wine transporter's license shall authorize the licensee to transport distilled spirits and wine to or from the licensed premises of any licensee under KRS 243.020 to 243.670 if both the consignor and consignee in each case are authorized by the law of the states of their residence to sell, purchase, ship or receive the alcoholic beverages.
- (2) A distilled spirits and wine transporter's license shall be issued only to persons authorized by proper certificate from the Department of Vehicle Regulation to engage in the business of common carrier.
- (3) No person except a railroad company or railway express company shall transport or cause to be transported any distilled spirits or wine, unless expressly authorized to do so by law.
- (4) Distilled spirits and wine may be transported by the holder of any license authorized by KRS 243.030 from and to express or freight depots to and from the premises covered by the license of the person so transporting distilled spirits or wine.
- (5) A licensed alcoholic beverage store operator may move, within the same county, alcoholic beverages from one of the operator's licensed stores to another without a transporter's license. However, the licensed store operator shall keep and maintain, in one (1) of his or her stores in that county, adequate books and records of the transactions involved in transporting alcoholic beverages from one (1) licensed store to another in accordance with standards established in administrative regulations promulgated by the board. The records shall be available to the department and the Revenue Cabinet upon request.
- (6) ***Distilled spirits and wine may be transported by the holder of any retail package or drink license issued under KRS 243.030 from the premises of a licensed wholesaler to the licensed premises of the retail licensee. Any retailer transporting alcoholic beverages under this subsection shall do so in a vehicle marked in conformity with administrative regulations of the department. Both the wholesaler and the retailer engaging in activity under this subsection shall be responsible for maintaining records documenting the transactions.***

Section 2. KRS 243.260 is amended to read as follows:

- (1) A distilled spirits and wine special temporary license or a special temporary wine license may be issued to any regularly organized fair, exposition, racing association, or other party, when in the opinion of the board a necessity therefor exists. This license shall authorize the licensee to exercise the privileges of a distilled spirits and wine retail drink licensee at designated premises for a specified and limited time, not to exceed thirty (30) days; except that the special temporary wine license shall apply to wine sales only. All restrictions and

prohibitions applying to a distilled spirits and wine retail drink licensee shall apply also to a special temporary licensee.

- (2) *A nonprofit organization holding a retail malt beverage license may be issued a distilled spirits and wine special temporary license or a special temporary wine license to sell distilled spirits and wine by the drink on the licensed premises for a specified and limited time, not to exceed ten (10) days. The temporary license may be issued in conjunction with any public or private event, including, but not limited to weddings, reception, reunions, or similar occasions.*

Approved March 12, 2003

CHAPTER 38

(SB 127)

AN ACT relating to revolving funds of the Kentucky Infrastructure Authority.

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

Section 1. KRS 224A.111 is amended to read as follows:

- (1) The federally-assisted wastewater revolving fund shall be established in the State Treasury and shall be administered by the authority under an agreement with the natural resources cabinet to assure compliance with the federal act.
- (2) The fund shall be a dedicated fund and all moneys in the fund shall be dedicated solely to *securing the payment of the principal of, interest on, and premium, if any, of revenue bonds issued by the authority under subsection (5) of this section which are to be secured solely by loan payments made by governmental agencies that have been deposited in the fund, making transfers to the federally-assisted water supply revolving fund,* and providing financial assistance to government agencies for the construction of publicly owned treatment works as defined in Section 212 of the federal act and for the implementation of a management program established under Section 319 of the federal act and for the development and implementation of a conservation and management plan under Section 320 of the federal act.
- (3) The authority may enter into grant agreements with the administrator of the United States Environmental Protection Agency and accept capitalization grants for the revolving fund in accordance with payment schedules established with the administrator.
- (4) All payments from the administrator pursuant to subsection (3) of this section shall be deposited in the dedicated revolving fund.
- (5) The authority may issue its revenue bonds or seek appropriations for deposit into the revolving fund, including the amounts required to match the capitalization grants from the administrator. An amount not exceeding the amount permitted by the federal act may be used for the reasonable costs of administering the fund, for reviewing and regulating project construction and for other reasonable costs of complying with the federal act.
- (6) The financial assistance which may be provided to governmental agencies by the revolving fund shall be limited to:
 - (a) Making loans, on the condition that the loans are made at or below market interest rates, including interest free loans; that annual principal and interest payments will commence no later than when project construction is completed and all loans will be fully amortized not later than twenty (20) years after project construction is completed; that the recipient of a loan will establish a dedicated source of revenue for repayment of loans; and that the fund will be credited with all payments of principal and interest on all loans;
 - (b) Guaranteeing, or purchasing insurance for obligations of the fund where the action would improve credit market access or reduce interest rates;
 - (c) Providing moneys with which to carry out the requirements of assistance agreements; and
 - (d) Providing a source of revenue or security for the payment of principal and interest on bonds or notes issued by the authority or agencies of the state if the proceeds of the sale of the bonds will be deposited in the fund.

- (7) The revolving fund shall be established, maintained and credited with repayments and the fund balance shall be available in perpetuity solely for its stated purposes.
- (8) The authority shall obligate all payments from the administrator of the United States Environmental Protection Agency as well as the required state match, within one (1) year after the receipt of the payments.
- (9) Financial assistance may be provided from the fund only for those infrastructure projects which the Finance and Administration Cabinet has approved from the prioritization schedule prepared by the natural resources cabinet.
- (10) The authority may make and condition loans from the fund as required by state or federal law.
- (11) The authority shall establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods for payments and disbursements received and made by the revolving fund and for fund balances at the beginning and end of the accounting period.
- (12) The authority or the natural resources cabinet may make or prepare any necessary or required plan or report.
- (13) The authority or the natural resources cabinet or the loan recipient shall make available to the administrator of the United States Environmental Protection Agency records which the administrator reasonably requires to review in order to determine compliance with any applicable provision of law.
- (14) The authority may enter into any necessary or required agreement and give or make any necessary or required assurance or certification with any person to receive payments or grants or to make or provide any financial assistance.
- (15) The authority may enter into any necessary or required agreement with federal or state agencies or persons to carry out the provisions of this section.
- (16) If a loan is made from the federally-assisted wastewater revolving fund which will finance the cost of facility planning and the preparation of plans, specifications, and estimates for construction of publicly-owned treatment works, the state shall ensure that if the recipient of the loan receives a grant under section 201(g) of the federal act for construction of such treatment works and an allowance under section 201(1)(l) of the federal act for nonfederal funds expended for the planning and preparation, the recipient shall promptly repay the loan to the extent of the allowance.
- (17) Financial assistance may be provided from the federally assisted wastewater revolving fund only with respect to a project which is consistent with plans, if any, developed under Sections 205(j), 208, 303(e), 319, and 320 of the federal act, as amended.
- (18) The authority shall require as a condition of making a loan or providing other assistance, as described in KRS 224A.100(6), from the fund that the recipient of the assistance shall maintain project accounts in accordance with generally-accepted governmental accounting standards.
- (19) Assistance may be provided from the fund, other than under subsection (6)(a) of this section, to a governmental agency with respect to the nonfederal share of the costs of a treatment works project for which the governmental agency is receiving assistance from the administrator of the United States Environmental Protection Agency under any other authority only if the assistance, as determined by the Finance and Administration Cabinet, is necessary to allow the project to proceed.

Section 2. KRS 224A.1115 is amended to read as follows:

- (1) The federally-assisted water supply revolving fund shall be established in the State Treasury and shall be administered by the authority under an agreement with the natural resources cabinet to assure compliance with the federal act.
- (2) The fund shall be a dedicated fund and all moneys in the fund shall be dedicated solely to ***securing the payment of the principal of, interest on, and premium, if any, of revenue bonds issued by the authority under subsection (5) of this section which are to be secured solely by loan payments made by governmental agencies that have been deposited in the fund, making transfers to the federally-assisted water supply revolving fund, and*** providing financial assistance to government agencies for the construction of publicly-owned water supply projects.

- (3) The authority may enter into grant agreements with the administrator of the United States Environmental Protection Agency and accept capitalization grants for the revolving fund in accordance with payment schedules established with the administrator of the United States Environmental Protection Agency.
- (4) All payments from the administrator of the United States Environmental Protection Agency pursuant to subsection (3) of this section shall be deposited in the dedicated revolving fund.
- (5) The authority may issue its revenue bonds or seek appropriations for deposit into the revolving fund, including the amounts required to match the capitalization grants from the administrator of the United States Environmental Protection Agency. An amount not exceeding the amount permitted by the federal act may be used for the reasonable costs of administering the fund, for reviewing and regulating project construction and for other reasonable costs of complying with the federal act.
- (6) The authority shall make any loan from the revolving fund subject to those conditions established by state or federal law.
- (7) The revolving fund shall be established, maintained, and credited with repayments and the fund balance shall be available in perpetuity solely for its stated purposes.
- (8) Financial assistance may be provided from the fund only for those infrastructure projects which the Finance and Administration Cabinet has approved from the prioritization schedule prepared by the natural resources cabinet.
- (9) The authority shall establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods for payments and disbursements received and made by the revolving fund and for fund balances at the beginning and end of the accounting period.
- (10) The authority or the natural resources cabinet may make or prepare any necessary or required plan or report.
- (11) The authority or the natural resources cabinet or the loan recipient shall make available to the administrator of the United States Environmental Protection Agency records which the administrator reasonably requires to review in order to determine compliance with any applicable provision of law.
- (12) The authority may enter into any necessary or required agreement and give or make any necessary or required assurance or certification with any person to receive payments or grants or to make or provide any financial assistance.
- (13) The authority may enter into any necessary or required agreement with federal or state agencies or persons to carry out the provisions of this section.
- (14) If the loan is made from the federally-assisted water supply revolving fund which will finance the cost of facility planning and the preparation of plans, specifications, and estimates for construction of publicly-owned water supply projects, the state shall ensure that if the recipient of the loan receives a grant under the federal act for construction of those water supply projects and an allowance under the federal act for nonfederal funds expended for the planning and preparation, the recipient shall promptly repay the loan to the extent of the allowance.
- (15) Financial assistance may be provided from the federally-assisted water supply revolving fund only with respect to a project which is consistent with plans, if any, developed under the federal act, as amended.
- (16) The authority shall require as a condition of making a loan or providing other assistance, as described in KRS 224A.100(6), from the fund that the recipient of the assistance shall maintain project accounts in accordance with generally-accepted governmental accounting standards.
- (17) Assistance may be provided from the fund to a governmental agency with respect to the nonfederal share of the costs of a water supply system project for which the governmental agency is receiving assistance from the administrator of the United States Environmental Protection Agency under any other authority only if the assistance is necessary to allow the project to proceed, as determined by the Finance and Administration Cabinet.

Section 3. KRS 224A.165 is amended to read as follows:

- (1) The authority may, in connection with the issuance of its revenue bonds and notes for the accomplishment of its public purposes pursuant to this chapter, establish in respect of the revenue bonds and notes reserve funds or replacement funds required in the sound discretion of the board of the authority in order to enable the authority to effectuate its proper public purposes, and to issue revenue bonds and notes in the most advantageous

manner. If any reserve fund or replacement fund created by the authority in connection with any revenue bond issue or note issue should, in violation of any contract made by the authority with any bond holder or note holder, be monetarily deficient in any respect as of any date of accounting stipulated by the authority, the authority 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 the reserve fund or replacement fund to its contractually required level and to pay any overdue principal and interest on any outstanding revenue bonds and notes of the authority be included in the next succeeding executive budget, and that the budget request be presented to the General Assembly of Kentucky with recommendation for approval by the General Assembly for payment to the authority for the use and benefit of the reserve fund or replacement fund.

- (2) If the provisions of KRS 56.870(3) are determined to apply to a revenue bond or note, and if the proceeds of the bond or note are made available to a governmental agency or private entity, and if the debt is not fully guaranteed by the United States government or secured by a nationally recognized entity authorized to issue guarantees and rated in the highest rating category by at least one (1) of the nationally recognized rating services, the authority shall obtain approval from the General Assembly in accordance with the provisions of KRS 56.870(1) prior to the issuance of the bonds or notes. Notwithstanding the foregoing, no such approval shall be required for the following issues of bonds or notes:
 - (a) Refunding bonds or notes which are issued for the purpose of achieving debt service savings and which do not extend the term of the refunded bonds;
 - (b) Bonds or notes ~~issued to provide interim construction financing to governmental agencies which mature no later than three (3) years from their date of issuance if the aggregate principal amount of the bonds or notes outstanding under any trust indenture or bond resolution does not exceed the sum of sixty million dollars (\$60,000,000);~~
 - (c) ~~Bonds or notes having a final maturity extending beyond three (3) years, the principal and premium, if any, and interest on which are secured primarily by repayments of loans made to the governmental agency or private entity, if the aggregate principal amount of the bonds or notes outstanding under any trust indenture or bond resolution does not exceed the sum of *five hundred million dollars (\$500,000,000)* ~~one hundred twenty five million dollars (\$125,000,000).~~~~

The incremental amount of principal debt incurred by issuing refunding bonds or notes which are issued for the purpose of achieving debt service savings and which do not extend the term of the refunded bond or note, shall not be subject to the limits defined in *paragraph* ~~paragraphs~~ (b) ~~and (c)~~.

Approved March 12, 2003

CHAPTER 39

(SB 156)

AN ACT relating to school records concerning missing children.

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

Section 1. KRS 17.470 is amended to read as follows:

- (1) Upon receipt of a report of a missing child who was born in the Commonwealth, the ***Kentucky State Police*** ~~Justice Cabinet, through the Kentucky Missing Child Information Center~~, shall notify within forty-eight (48) hours the state registrar of vital statistics for the Commonwealth of the disappearance of such child and shall provide to the state registrar identifying information about the missing child. ***Upon learning of the recovery of a missing child, the Kentucky State Police shall notify the state registrar.***
- (2) ***The Kentucky State Police shall provide the commissioner of education with a list of the names of all missing children and children who have been recovered along with, if available, the last known school of enrollment. The commissioner of education shall provide the information to schools as required in Section 2 of this Act.*** ~~If the Justice Cabinet has reason to believe that a missing child has been enrolled in a specific Kentucky elementary or secondary school, it shall notify the chief state school officer who shall notify the last such known school as to the child's disappearance.~~

- ~~(3) Upon learning of the recovery of a missing child, the Justice Cabinet shall notify the state registrar and the chief state school officer who shall notify any school previously notified of the child's disappearance}.~~

Section 2. KRS 156.495 is amended to read as follows:

- (1) The Department of Education shall *weekly distribute the names, provided by the Kentucky State Police, of all missing children and children who have been recovered to all public and private schools admitting children in preschool through grade twelve (12)*~~[provide, by administrative regulation, for a program to identify and locate missing Kentucky school children who are enrolled in Kentucky public and private schools in kindergarten through grade twelve (12). Pursuant to such program, the department shall:~~
 - ~~(a) Prepare forms to be forwarded, upon request, to the parents or guardians of missing Kentucky school children enrolled in kindergarten through grade twelve (12). The forms shall be designed to include such information as the department deems necessary for the identification of the missing child, including the child's physical description and last known location;~~
 - ~~(b) Compile from the information on such forms a list of missing Kentucky school children, to be distributed monthly to all public and private schools admitting children to kindergarten through grade twelve (12). The list shall include the names of all such missing children, together with such other information as the department deems necessary; and~~
 - ~~(c) Notify the appropriate local, state, or federal law enforcement authority as soon as any additional information is obtained or contact is made with respect to a missing Kentucky school child}.~~
- (2) Every public and private school in this state shall notify *local law enforcement or the Kentucky State Police*~~[Department of Education]~~ at its earliest known contact with any child whose name appears on the ~~department's~~ list of missing Kentucky children.
- (3) The department shall encourage each public and private school to engage in a program whereby the parents of children who are absent from school are notified in person or by telephone to verify if they know that the child is not attending school.

Section 3. KRS 158.032 is amended to read as follows:

- (1) Upon notification by the *commissioner of education*~~[chief state school officer]~~ of a child's disappearance, any school in which the child is currently or was previously enrolled shall flag the record of the child so that when a copy of or information regarding the child's record is requested, the school shall be alerted that the record is that of a missing child. The school shall immediately report to *local law enforcement or the Kentucky State Police*~~[Justice Cabinet]~~ any request concerning flagged records or any knowledge as to the whereabouts of any missing child.
- (2) Upon notification by the *commissioner of education*~~[chief state school officer]~~ of any missing child who has been recovered, the school shall remove the flag from the child's record.
- (3) Upon enrollment of a student for the first time in any elementary or secondary school, the school shall notify in writing the person enrolling the student that within thirty (30) days the person shall provide either:
 - (a) A certified copy of the student's birth certificate; or
 - (b) Other reliable proof of the student's identity and age, and an affidavit of the inability to produce a copy of the birth certificate.
- (4) Upon the failure of a person enrolling the student to comply with this section, the school shall notify the person in writing that unless he complies within ten (10) days the case shall be referred to the *Kentucky State Police or [Missing Child Information Center and]* local law enforcement officials for investigation. If compliance is not obtained within the ten (10) day period, the school shall so refer the case.
- (5) Within fourteen (14) days after enrolling a transfer student, each elementary or secondary school shall request directly from the student's previous school a certified copy of the student's record. Any school receiving a request of a student's record which has been flagged as the record of a missing child shall not forward the student's record but shall instead notify *local law enforcement or the Kentucky State Police*~~[Justice Cabinet]~~.

Approved March 12, 2003

CHAPTER 40**(SB 34)**

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. 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.
 - (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.
 - (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.
 - (k) Office of Human Resource Management.
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.
 - ~~(i)~~ ~~(j)~~ Office of Aging Services.
9. Finance and Administration Cabinet:
- (a) Office of Financial Management.
 - (b) Office of the Controller.
 - (c) Department for Administration.
 - (d) Department of Facilities Management.
 - (e) State Property and Buildings Commission.
 - (f) Kentucky Pollution Abatement Authority.
 - (g) Kentucky Savings Bond Authority.
 - (h) Deferred Compensation Systems.
 - (i) Office of Equal Employment Opportunity Contract Compliance.
 - (j) Office of Capital Plaza Operations.
 - (k) County Officials Compensation Board.
 - (l) Kentucky Employees Retirement Systems.
 - (m) Commonwealth Credit Union.
 - (n) State Investment Commission.
 - (o) Kentucky Housing Corporation.
 - (p) Governmental Services Center.
 - (q) Kentucky Local Correctional Facilities Construction Authority.

- (r) Kentucky Turnpike Authority.
 - (s) Historic Properties Advisory Commission.
 - (t) Kentucky Tobacco Settlement Trust Corporation.
 - (u) 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 Information Technology.
 - (m) Office of Labor-Management Relations and Mediation.
 - (n) Office of General Counsel.
 - (o) Workers' Compensation Funding Commission.
 - (p) 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) Department for Training and Reemployment.
- (j) Office of General Counsel.
- (k) Office of Communication Services.
- (l) Office of Workforce Partnerships.
- (m) Office of Workforce Analysis and Research.
- (n) Office of Budget and Administrative Services.
- (o) Office of Technology Services.
- (p) Office of Quality and Human Resources.
- (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.
10. Education Professional Standards Board.

Section 2. KRS 194A.030 is amended to read as follows:

The cabinet consists of the following major organizational units, which are hereby created:

- (1) Office of the Secretary;
- (2) ~~Office of Program Support. The Office of Program Support shall provide professional support in personnel activities; planning; budgeting; contract management; policy analysis, including but not limited to the appraisal of needs; evaluation of programs; review of citizen complaints about services of the cabinet when complaints cannot be resolved through normal administrative remedies; and fiscal, facility, and information management functions of the cabinet. The Office of Program Support shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050;~~
- (3) Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for Medicaid services, who shall be appointed by the secretary with the approval of the Governor under with KRS 12.050. The commissioner for Medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for Medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (3)(4) Department for Public Health. The Department for Public Health shall develop and operate all programs of the cabinet that provide health services and all programs for assessing the health status of the population for the promotion of health and the prevention of disease, injury, disability, and premature death. The Department for Public Health shall be headed by a commissioner for public health who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for public health shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for public health shall exercise authority over the Department for Public Health under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (4)(5) Department for Mental Health and Mental Retardation Services. The Department for Mental Health and Mental Retardation Services shall develop and administer programs for the prevention of mental illness, mental retardation, and chemical dependency and shall develop and administer an array of services and support for the treatment, habilitation, and rehabilitation of persons who have a mental illness or emotional disability, who have mental retardation, or who are chemically dependent. The Department for Mental Health and Mental Retardation Services shall be headed by a commissioner for mental health and mental retardation who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for mental health and mental retardation shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for mental health and mental retardation shall exercise authority over the department under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (5)(6) Office of the Inspector General. The Office of the Inspector General shall be responsible for:
 - (a) The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;
 - (b) Licensing and regulatory functions as the secretary may delegate;

- (c) Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.165 to 311.235 and KRS 311.241, 311.243, 311.245, and 311.247; and
- (d) The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority.

The Office of the Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary;

~~(6)~~~~(7)~~ Commission for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed by the commission. The commission shall advocate the rights of children with disabilities and, to the extent that funds are available, shall provide the services and facilities for children with disabilities as are deemed appropriate by the commission. The commission shall be composed of seven (7) members appointed by the Governor to serve a term of office of four (4) years. The commission may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the Commission for Children with Special Health Care Needs shall be performed through the office of the executive director of the commission. The executive director shall be appointed by the Governor under KRS 12.040, and the commission may at any time recommend the removal of the executive director upon filing with the Governor a full written statement of its reasons for removal. The executive director shall report directly to the Commission for Children with Special Health Care Needs and serve as the commission's secretary;

~~(7)~~~~(8)~~ Office of Certificate of Need. The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeal functions, as set out in KRS Chapter 216B, shall be performed by this office;

~~(8)~~~~(9)~~ Office of the General Counsel. The Office of the General Counsel shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of the General Counsel shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney and shall administer all personal service contracts of the cabinet for legal services. The Office of the General Counsel shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105.

~~(9)~~~~(10)~~ Office of Aging Services. The Office of Aging Services shall serve as the state unit on aging as required by the Older Americans Act of 1965, as amended, 42 U.S.C. secs. 3001 et seq., including having responsibility for the development of the state plan on aging, advocacy, planning, coordination, information sharing, brokering, reporting and evaluation of contract and service-provider agreement implementation. The Office of Aging Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The Office of Aging Services shall also administer grants, programs, and initiatives designed to assist older Kentuckians, administer the long-term care ombudsman program for Kentucky, and provide and coordinate services to persons with Alzheimer's disease and related disorders and their caregivers.

Section 3. The General Assembly hereby confirms Executive Order 2002-761, dated July 1, 2002, by which the Office of Program Support within the Cabinet for Health Services is abolished and the Division for Quality and Human Resource Management, the Division for Policy and Financial Management, and the Division for Technology Resources are created and attached to the Office of the Secretary of the Cabinet for Health Services, to the extent it is not otherwise confirmed by this Act.

Approved March 12, 2003

CHAPTER 41

(SB 43)

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. 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.
- (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.
 - (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.~~
- (k) Office of Human Resource Management.
- 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 Financial Management.
 - (b) Office of the Controller.
 - (c) Department for Administration.
 - (d) Department of Facilities Management.
 - (e) State Property and Buildings Commission.
 - (f) Kentucky Pollution Abatement Authority.
 - (g) Kentucky Savings Bond Authority.
 - (h) Deferred Compensation Systems.
 - (i) Office of Equal Employment Opportunity Contract Compliance.
 - (j) Office of Capital Plaza Operations.
 - (k) County Officials Compensation Board.
 - (l) Kentucky Employees Retirement Systems.
 - (m) Commonwealth Credit Union.
 - (n) State Investment Commission.
 - (o) Kentucky Housing Corporation.
 - (p) Governmental Services Center.
 - (q) Kentucky Local Correctional Facilities Construction Authority.
 - (r) Kentucky Turnpike Authority.
 - (s) Historic Properties Advisory Commission.
 - (t) Kentucky Tobacco Settlement Trust Corporation.
 - (u) 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 Information Technology.
 - (m) Office of Labor-Management Relations and Mediation.
 - (n) Office of General Counsel.
 - (o) Workers' Compensation Funding Commission.
 - (p) 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) Department for Training and Reemployment.
 - (j) Office of General Counsel.
 - (k) Office of Communication Services.
 - (l) Office of Workforce Partnerships.
 - (m) Office of Workforce Analysis and Research.
 - (n) Office of Budget and Administrative Services.
 - (o) Office of Technology Services.
 - (p) Office of Quality and Human Resources.
 - (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.
- 10. Education Professional Standards Board.

Section 2. KRS 194B.030 is amended to read as follows:

The cabinet consists of the following major organizational units, which are hereby created:

- (1) Office of the Secretary. The Office of the Secretary for Families and Children may, in addition to the secretary for families and children, include other personnel as are necessary to direct and carry out the missions and goals of the cabinet, including a deputy secretary if deemed necessary by the secretary of the cabinet and upon approval of the Governor. The Kentucky Commission on Community Volunteerism and Service shall be attached to the Office of the Secretary for oversight, technical, and administrative support purposes.
- (2) Office of the General Counsel. The Office of the General Counsel shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of the General Counsel shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney and shall administer all personal service contracts of the cabinet for legal services. The Office of the General Counsel shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105.
- (3) Office of Program Support. The Office of Program Support shall be responsible for providing administrative and management support, planning, and appraisal of need services within the Cabinet for Families and Children. All fiscal, procurement, budgetary, legislative, leasing, and facility management functions of the cabinet shall be vested in the Office of Program Support. The Office of Program Support shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The executive director shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The executive director shall exercise authority over the Office of Program Support under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary.
- (4) Office of Family Resource and Youth Services Centers. The Office of Family Resources and Youth Services Centers shall be responsible for the administration, management, and operations of the Family Resources and Youth Services Centers Program. The Office of Family Resources and Youth Services Centers shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.
- (5) Office of the Ombudsman. The Office of the Ombudsman shall provide professional support in the evaluation of programs, including but not limited to, *quality improvement and information analysis and reporting, including contract monitoring, program monitoring, and the development of quality service delivery, and a review and resolution of citizen complaints about programs or services of the cabinet when those complaints are unable to be resolved through normal administrative remedies. The Office of the Ombudsman shall place an emphasis on research and best practice and program accountability and shall monitor federal compliance.* The Office of the Ombudsman shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.
- (6) Office of Technology Services. The Office of Technology Services shall develop and maintain technology and information management systems in support of all units of the cabinet. The Office of Technology Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The executive director for technology services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The executive director for technology services shall exercise authority of the Office of Technology Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary.
- ~~(7) Office of Performance Enhancement. The Office of Performance Enhancement shall be responsible for quality improvement and information analysis and reporting, including contract monitoring, program monitoring, and the development of quality service delivery. The Office of Performance Enhancement shall focus on research, best practice, and program accountability and shall monitor federal compliance. The Office of Performance Enhancement shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.~~
- ~~(8)~~ Office of Human Resource Management. The Office of Human Resource Management shall coordinate, oversee, and execute all personnel, training, and professional development functions of the cabinet. The office shall focus on the oversight, development, and implementation of quality personnel services; curriculum development and delivery of instruction to staff; the administration, management, and oversight of training operations; health, safety, and compliance training; and equal employment opportunity compliance functions.

The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.

~~(8)(9)~~ Department for Community Based Services. The Department for Community Based Services shall administer an array of services including child and adult protection, permanency, child care, social services, public assistance, family and child support, and services to enhance family self-sufficiency. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.

~~(9)(10)~~ Department for Disability Determination Services. The Department for Disability Determination Services shall serve as the state unit as required by Title II and Title XVI of the Social Security Act, including having responsibility for determining eligibility for disability for those citizens of the Commonwealth who file applications for disability with the Social Security Administration. The department shall also make determinations for citizens of the Commonwealth who make application for the Kentucky Transitional Assistance Program and determine medical exemptions for participants in the Kentucky Works Program. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.

Section 3. The General Assembly confirms Executive Order 2002-1344, dated December 6, 2002, which abolishes the Office of Performance Enhancement and reorganizes various divisions and offices within the Cabinet for Families and Children, to the extent it is not otherwise confirmed by this Act.

Approved March 12, 2003

CHAPTER 42

(HB 391)

AN ACT relating to the marketing of home-processed foods.

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

Section 1. KRS 217.015 is amended to read as follows:

For the purposes of KRS 217.005 to 217.215:

- (1) "Advertisement" means all representations, disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;
- (2) "Bread" and "enriched bread" mean only the foods commonly known and described as white bread, white rolls, white buns, enriched white bread, enriched rolls, and enriched white buns, as defined under the federal act. ***For the purposes of Sections 2 and 3 of this Act, "bread" or "enriched bread" also means breads that may include vegetables or fruit as an ingredient;***
- (3) "Cabinet" means the Cabinet for Health Services or its designee;
- (4) "Color" means but is not limited to black, white, and intermediate grays;
- (5) "Color additive" means a material that:
 - (a) Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source. Nothing in this paragraph shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest; or
 - (b) When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with another substance, of imparting color. "Color additive" does not include any material that has been or may in the future be exempted under the federal act;
- (6) "Contaminated with filth" means any food, drug, device, or cosmetic that is not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminants;
- (7) "Cosmetic" means:

- (a) Articles intended to be rubbed, poured, sprinkled, sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and
 - (b) Articles intended for use as a component of those articles, except that the term shall not include soap;
- (8) "Device," except when used in subsection (48) of this section, KRS 217.035(6), KRS 217.065(3), KRS 217.095(3), and KRS 217.175(10), means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended:
- (a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or
 - (b) To affect the structure or any function of the body of man or other animals;
- (9) "Dispense" means to deliver a drug or device to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;
- (10) "Dispenser" means a person who lawfully dispenses a drug or device to or for the use of an ultimate user;
- (11) "Drug" means:
- (a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;
 - (b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;
 - (c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and
 - (d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;
- (12) "Enriched," as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of enriched flour as defined under the federal act;
- (13) "Environmental Pesticide Control Act of 1972" means the Federal Environmental Pesticide Control Act of 1972, Pub. L. 92-516, and all amendments thereto;
- (14) "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and cosmetics, 15 U.S.C. secs. 1451 et seq., and all amendments thereto;
- (15) "Federal act" means the Federal Food, Drug and Cosmetic Act, 21 U.S.C. secs. 301 et seq., 52 Stat. 1040 et seq., or amendments thereto;
- (16) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of substances used for flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed. This definition does not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if the compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending, or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;

- (17) "Flour" means only the foods commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;
- (18) "Food" means:
- (a) Articles used for food or drink for man or other animals;
 - (b) Chewing gum; and
 - (c) Articles used for components of any such article;
- (19) "Food additive" means any substance the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any of these uses, if the substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that the term does not include:
- (a) A pesticide chemical in or on a raw agricultural commodity;
 - (b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity;
 - (c) A color additive; or
 - (d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq.; or the Meat Inspection Act of 1907; and amendments thereto;
- (20) "Food processing establishment" means any commercial establishment in which food is manufactured, processed, or packaged for human consumption, but does not include retail food establishments, ***home-based processors, or home-based microprocessors***;
- (21) "Food service establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; charitable food kitchens; or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It does not include food vending machines, establishments serving beverages only in single service or original containers, or retail food stores which only cut, slice, and prepare cold-cut sandwiches for individual consumption;
- (22) "Food storage warehouse" means any establishment in which food is stored for subsequent distribution;
- (23) "Immediate container" does not include package liners;
- (24) "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent illness or injury based on:
- (a) The number of potential illnesses or injuries; or
 - (b) The nature, severity, and duration of the anticipated illness or injury;
- (25) "Interference" means threatening or otherwise preventing the performance of lawful inspections or duties by agents of the cabinet during all reasonable times of operation;
- (26) "Label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of the article, or is easily legible through the outside container or wrapper;

- (27) "Labeling" means all labels and other written, printed, or graphic matter:
- (a) Upon an article or any of its containers or wrappers; or
 - (b) Accompanying the article;
- (28) "Legend drug" means a drug defined by the Federal Food, Drug and Cosmetic Act, as amended, and under which definition its label is required to bear the statement "Caution: Federal law prohibits dispensing without prescription.";
- (29) "Meat Inspection Act" means the Federal Meat Inspection Act, 21 U.S.C. secs. 71 et seq., 34 Stat. 1260 et seq., including any amendments thereto;
- (30) "New drug" means:
- (a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or
 - (b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under prescribed conditions, has become so recognized, but which has not, otherwise than in the investigations, been used to a material extent or for a material time under the conditions;
- (31) "Official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them;
- (32) "Person" means an individual, firm, partnership, company, corporation, trustee, association, or any public or private entity;
- (33) "Pesticide chemical" means any substance that alone in chemical combination, or in formulation with one or more other substances, is an "economic poison" within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act and amendments thereto, and that is used in the production, storage, or transportation of raw agricultural commodities;
- (34) "Poultry Products Inspection Act" means the Federal Poultry and Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq., Pub. L. 85-172, 71 Stat. 441, and any amendments thereto;
- (35) "Practitioner" means medical or osteopathic physicians, dentists, chiropractors, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices. "Practitioner" includes optometrists when administering or prescribing pharmaceutical agents authorized in KRS 320.240(12) to (14), advanced registered nurse practitioners as authorized in KRS 314.011 and 314.042, and physician assistants when administering or prescribing pharmaceutical agents as authorized in KRS 311.858;
- (36) "Prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, that is signed, given, or authorized by a medical, dental, chiropractor, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;
- (37) "Prescription blank" means a document that conforms with KRS 217.216 and is intended for prescribing a drug to an ultimate user;
- (38) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;
- (39) "Retail food establishment" means any food service establishment, retail food store, or a combination of both within the same establishment;
- (40) "Retail food store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but does not include establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, or food processing establishments;

- (41) "Salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise trafficking in any salvaged merchandise;
- (42) "Salvage processing plant" means an establishment operated by a person engaged in the business of reconditioning, labeling, relabeling, repackaging, reconditioning, sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifrices, cosmetics, single-service food containers or utensils, containers and packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a similar nature that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means;
- (43) "Second or subsequent offense" has the same meaning as it does in KRS 218A.010;
- (44) "Secretary" means the secretary of the Cabinet for Health Services;
- (45) "Temporary food service establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days;
- (46) "Traffic" has the same meaning as it does in KRS 218A.010;
- (47) "Ultimate user" has the same meaning as it does in KRS 218A.010;
- (48) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts that are material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under the conditions of use as are customary or usual;
- (49) The representation of a drug in its labeling or advertisement as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body;~~and~~
- (50) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of those articles for sale, the sale, dispensing, and giving of those articles, and the supplying or applying of those articles in the conduct of any food, drug, or cosmetic establishment;
- (51) *"Home" means a primary residence occupied by the processor, that contains only two (2) ranges, ovens, or double-ovens, and no more than three (3) refrigerators used for cold storage. This equipment shall have been designed for home use and not for commercial use, and shall be operated in the kitchen within the residence;*
- (52) *"Formulated acid food product" means an acid food in which the addition of a small amount of low-acid food results in a finished equilibrium pH of 4.6 or below that does not significantly differ from that of the predominant acid or acid food;*
- (53) *"Acidified food product" means a low-acid food to which acid or acidic food is added and which has a water activity value greater than 0.85, and a finished equilibrium pH of 4.6 or below;*
- (54) *"Low-acid food" means foods, other than alcoholic beverages, with a finished equilibrium pH greater than 4.6, and a water activity value greater than 0.85;*
- (55) *"Acid food" means foods that have a natural pH of 4.6 or below;*
- (56) *"Home-based processor" means a farmer who, in the farmer's home, produces or processes whole fruit and vegetables, mixed-greens, jams, jellies, sweet sorghum syrup, preserves, fruit butter, bread, fruit pies, cakes, or cookies; and*
- (57) *"Home-based microprocessor" means a farmer who, in the farmer's home or certified or permitted kitchen, produces or processes acid foods, formulated acid food products, acidified food products, or low-acid canned foods, and who has a net income of less than thirty-five thousand dollars (\$35,000) annually from the sale of the product;*

- (58) *"Certified" means any person or home-based microprocessor who:*
- (a) *Has attended the Kentucky Cooperative Extension Service's microprocessing program or pilot microprocessing program and has been identified by the Kentucky Cooperative Extension Service as having satisfactorily completed the prescribed course of instruction; or*
 - (b) *Has attended some other school pursuant to 21 C.F.R. sec. 114.10; and*
- (59) *"Farmer" means a person who is a resident of Kentucky and owns or rents agricultural land pursuant to subsection (9) of KRS 132.010 or horticultural land pursuant to subsection (10) of KRS 132.010. For the purposes of Sections 2 to 5 of this Act, "farmer" also means any person who is a resident of Kentucky and has grown the primary horticultural and agronomic ingredients used in the home-based processed products which they have produced.*

SECTION 2. A NEW SECTION OF KRS 217.005 TO 217.215 IS CREATED TO READ AS FOLLOWS:

- (1) *A home-based processor shall be exempt from KRS 217.035, 217.037, and 217.125 if the following conditions are met:*
- (a) *All finished product containers are clean, sanitary, and properly labeled pursuant to subsection (3) of this section;*
 - (b) *All home-processed foods produced under this exemption are neither adulterated nor misbranded pursuant to subsection (4) of this section; and*
 - (c) *All glass containers for jams, jellies, preserves, fruit butter, and similar products are provided with suitable rigid metal covers.*
- (2) *A home-based processor shall not produce or process for sale acid foods, acidified food products, formulated acid food products, or low-acid canned foods.*
- (3) *A home-based processor shall label each of its food products and include the following information on the label of each of its food products:*
- (a) *The name and address of the home-based processing operation;*
 - (b) *The common or usual name of the food product;*
 - (c) *The ingredients of the food product, in descending order of predominance by weight;*
 - (d) *The net weight and volume of the food product by standard measure, or numerical count;*
 - (e) *The following statement in ten (10) point type: "This product is home-produced and processed"; and*
 - (f) *The date the product was processed.*
- (4) *Food products identified in subsection (56) of Section 1 of this Act and not labeled in accordance with subsection (3) of this section are deemed misbranded.*
- (5) *Food products identified in subsection (56) of Section 1 of this Act and produced, processed, and labeled in accordance with subsection (3) of this section are acceptable food products that may only be offered for sale by farmers markets, certified roadside stands, or on the processor's farm. These food products may be used in preparing and serving food.*
- (6) *Food products identified in subsection (56) of Section 1 of this Act and labeled in accordance with subsection (3) of this section shall not be required to be tested in determining whether or not the food product is an acid food, acidified food product, formulated acid food product, or low-acid food.*
- (7) *The processing facilities of a home-based processor may be inspected annually by the cabinet.*
- (8) *A home-based processor shall be subject to food sampling and inspection if it is determined that its food product is misbranded pursuant to subsection (4) of this section or adulterated, or if a consumer complaint has been received.*
- (9) *If the cabinet has reason to believe that an imminent health hazard exists it may invoke cessation of production until it deems that the hazardous situation has been addressed to the satisfaction of the cabinet.*

SECTION 3. A NEW SECTION OF KRS 217.005 TO 217.215 IS CREATED TO READ AS FOLLOWS:

- (1) *The secretary shall promulgate administrative regulations to accommodate the specific circumstances of home-based microprocessors. In order to protect public health while encouraging the marketing of home-processed foods, the administrative regulations shall include, at a minimum, standards for:*
 - (a) *Installation, design, location, and maintenance of toilet rooms;*
 - (b) *Installation and maintenance of hand-washing facilities;*
 - (c) *Manual and mechanical cleaning and sanitizing processes;*
 - (d) *Installation and location of equipment;*
 - (e) *Construction and covering of floors; and*
 - (f) *Construction, materials, and maintenance of walls and ceilings.*
- (2) *Food products that are produced or processed by a home-based microprocessor and in compliance with administrative regulations promulgated pursuant to subsection (1) of this section are acceptable food products that may only be offered for sale by farmers markets, certified roadside stands, or on the processor's farm. These food products may be used in preparing and serving food.*

SECTION 4. A NEW SECTION OF KRS 217.005 TO 217.215 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Cooperative Extension Service shall develop, implement, and administer a program to train home-based microprocessors or personnel in compliance with 21 C.F.R. sec. 114.10.*
- (2) *The cabinet shall evaluate and certify home-based microprocessors or personnel who have completed the pilot microprocessing program or the microprocessing program.*
- (3) *The cabinet shall by June 30, 2003:*
 - (a) *Establish certification terms, conditions, and length of time the certification is valid;*
 - (b) *Establish terms, conditions, and standards for recertification;*
 - (c) *Establish fees for certification and recertification; and*
 - (d) *Develop a certification document.*
- (4) *The cabinet and the Kentucky Cooperative Extension Service shall by June 30, 2003:*
 - (a) *Develop an examination document;*
 - (b) *Establish examination subject matter;*
 - (c) *Establish criteria for program completion; and*
 - (d) *Establish fees for the pilot microprocessing program and the microprocessing program.*
- (5) *The certification document shall be made in triplicate, with one (1) copy given to the home-based microprocessor or personnel, one (1) copy given to the Kentucky Cooperative Extension Service, and one (1) copy given to the cabinet.*
- (6) *Upon completion of the program, home-based microprocessors and personnel shall be deemed to be certified and to have met the training requirements pursuant to 21 C.F.R. sec. 114.10.*

SECTION 5. A NEW SECTION OF KRS 217.005 TO 217.215 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Cooperative Extension Service shall establish and administer a pilot microprocessing program to train home-based microprocessors and personnel for supervising or giving instruction in food-handling techniques, food-protection principles, personal hygiene and plant sanitation practices, pH controls, and critical factors in acidification.*
- (2) *The pilot microprocessing program shall be established by August 1, 2003, and implemented no later than September 1, 2003. There shall be no less than four (4) program workshops offered to home-based microprocessors and personnel, and each shall be held in a separate and distinct geographical location within the state.*

Approved March 12, 2003

CHAPTER 43**(HB 489)**

AN ACT authorizing the payment of certain claims against the state which have been duly audited and approved according to law, and have not been paid because of the lapsing or insufficiency of former appropriations against which claims were chargeable, making an appropriation therefore, and declaring an emergency.

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

Section 1. (1) There is appropriated out of the general fund in the State Treasury for the purpose of compensating persons and companies named below for claims which have been duly audited and approved according to law, but have not been paid because of lapsing or insufficiency of former appropriations against which the claims were chargeable, the amounts listed below:

Four Rivers Behavioral Health

1526 Lone Oak Road

Paducah, Kentucky 42003 \$13,500.00

Frankfort Lumber Company

111 Capital Avenue

Frankfort, Kentucky 40601 \$5,411.62

Kentucky State University

400 East Main Street

Frankfort, Kentucky 40601 \$3,139.89

Barbara Brown

1690 Leestown Road

Frankfort, Kentucky 40601 \$1,998.25

Barbour, Griffith & Rogers, Inc.

P.O. Box 960

Yazoo City, Mississippi 39194 \$751.35

Nancy E. Gaunce

1716 Hunters Rest

Lexington, Kentucky 40515 \$2,605.19

Rosemary Weddington

9 Regents Park

Frankfort, Kentucky 40601 \$2,838.70

Ruth Styles

1058 Fontaine Road

Lexington, Kentucky 40502 \$2,388.40

Gregory Fulkerson

1483 St. James Court, #2

Louisville, Kentucky 40208 \$2,583.60

Oldham County Board of Education

P.O. Box 218	
Buckner, Kentucky 40010	\$7,145.00
Mason County Board of Education	
P.O. Box 130	
Maysville, Kentucky 41056	\$1,925.00
Pikeville Independent Board of Education	
P.O. Box 2010	
Pikeville, Kentucky 41502	\$3,343.00
McKesson Health Solutions	
22423 Network Place	
Chicago, Illinois 60673-1224	\$6,041.42
Kentucky Emergency Medical Technician Instructors Association, Inc.	
138 Northwood Drive	
Lexington, Kentucky 40505-1202	\$5,855.00
Sturgill, Turner, Barker, and Moloney, PLLC	
155 East Main Street	
Lexington, Kentucky 40597	\$4,626.10
Bonnie Kendall	
9311 Sissone Drive	
Louisville, Kentucky 40118	\$1478.40
Allan Ray Bertram	
P.O. Box 1717	
Campbellsville, Kentucky 42719-0171	\$1,563.15
Julia Fields	
P.O. Box 21	
Goshen, Kentucky 40026	\$1,625.00
Ramada Limited	
205 Commerce Drive	
Elizabethtown, Kentucky 42701	\$1,744.24
Core-B, Inc.	
86 Lake Cynthia Road	
Blackville, South Carolina 29817	\$5,165.00
Abner Construction Company	
d/b/a/ Mor-Steel	
1468 Flemingsburg Road	
Morehead, Kentucky 40351	\$11,631.90
OSI Collection Service, Inc.	
P.O. Box 965	

Brookfield, Wisconsin 53008	\$1,384.03
Kentucky State University	
Office of the President	
Hume Hall, Suite 201	
Frankfort, Kentucky 40601	\$36,161.71
Jewish Hospital Healthcare Services	
P.O. Box 1370	
Louisville, Kentucky 40201-1370	\$2,106.80
Baptist East	
4000 Kresge Way	
Louisville, Kentucky 40207-4605	\$64.67
Marshall Abney CRNA	
Berea Hospital Anesthesia Department	
305 Estill Street	
Berea, Kentucky 40403	\$300.00
Hilda M. Farris	
c/o Gerri Dunaway, Health Care Coordinator	
3 Pirate Parkway	
Berea, Kentucky 40403	\$204.11
George C. Borst III, M.D.	
1201 St. Christopher Drive	
Ashland, Kentucky 41101	\$343.00
Lawyer Chiropractic Clinic	
1616 Grant Street	
Portsmouth, Ohio 45662	\$717.25
Physical Therapy Centers of Ashland, Bellefonte, Grayson,	
Ironton, South Shore, and Wheelersburg	
P.O. Box 1240	
Ashland, Kentucky 41105-1240	\$2,176.00
Central Kentucky Emergency Services	
P.O. Box 8	
Louisville, Kentucky 40065-8345	\$341.20
Kenneth Pendygraft	
c/o/ Jackie Bissmeyer	
3516 Lyon Drive	
Lexington, Kentucky 40513	\$11,405.00
Richmond Radiology	
318 Highland Park Drive	

Richmond, Kentucky 40475

\$654.66

(2) The claims listed below are for the payment of State Treasury checks payable to the persons or their personal representatives, and the firms listed, but not presented for payment within a period of five (5) years from the date of issuance of such checks as required by KRS 41.370 and 413.120.

	Payee	Treasury Fee	Total Check
Check #G3,416,348 dated June 30, 1988			
Benjamin B. Prewitt			
7282 Georgetown Road			
Midway, Kentucky 40347	\$152.28	\$25.00	\$127.28
Check #T6,780,794 dated June 28, 1989			
Billie S. and A.S.C. Ables			
1600 Elkchester Road			
Lexington, Kentucky	\$205.00	\$25.00	\$180.00
Check #G8670510 dated August 17, 1992			
Alma G. Jenkins			
c/o Heather Chadwell			
1047 U.S. 127 South, Suite 4			
Frankfort, Kentucky 40601	\$259.78	\$25.00	\$234.78
Check #T1413764 dated May 25, 1994			
Travis B. and C.M. Lucas			
1908 Gilead Road			
Glendale, Kentucky 42740	\$93.00	\$25.00	\$68.00
Check #P2212100 dated January 10, 1995			
Opal Foley			
c/o/ Jeffrey L. Foley			
254 Old Sulfer Springs Road			
Columbia, Kentucky 42728	\$162.66	\$25.00	\$137.66
Check # T2701549 dated July 19, 1995			
Quintin E. and Cyndi Davis			
R.R. 3, Box 146-C			
Flemingsburg, Kentucky 41041	\$69.00	\$25.00	\$44.00
Check #T3583505 dated May 30, 1996			
Pamela D. Herrington			
P.O. Box 320			
Irvine, Kentucky 40336	\$192.00	\$25.00	\$167.00
Check #E1,195,146 dated September 20, 1996			
John R. and Sylvia E. Conti, Jr.			
1009 Hawks Nest Lane			
Lawrenceburg, Kentucky 40342	\$305.46	\$25.00	\$280.46

Check #P3526804 dated October 23, 1996	\$852.88	\$25.00	\$827.88
Check #P3555837 dated November 8, 1996	\$859.89	\$25.00	\$834.89
Estate of L.H. Nickell			
614 Prestonsburg Street			
West Liberty, Kentucky 41472 (total):	\$1,712.77	\$50.00	\$1,662.77
Check #T4512628 dated April 29, 1997			
John J. and Joan L. Kelleman			
4700 Southern Hills Drive			
Ashland, Kentucky 41102-9203	\$443.00	\$25.00	\$418.00
Check #T3661985 dated June 6, 1996	\$126.87	\$25.00	\$101.87
Check #E1,299,738 dated June 6, 1997	\$143.00	\$25.00	\$118.00
Robert T. Barsh			
3003 Crums Lane			
Louisville, Kentucky 40216-4405 (total):	\$269.87	\$50.00	\$219.87

Section 2. Whereas the persons and companies named above have furnished in good faith the services, supplies, and materials enumerated, and the Commonwealth has received the same, 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 12, 2003

CHAPTER 44

(SCR 61)

A CONCURRENT RESOLUTION urging the Cabinet for Health Services to continue support for the administration of the HIV/AIDS Advisory Council and to implement wherever possible the Council's recommendations.

WHEREAS, the HIV/AIDS Advisory Council was authorized by Senate Bill 227 of the 2000 General Assembly; and

WHEREAS, the HIV/AIDS Advisory Council has worked under the oversight of the Cabinet for Health Services and has met to consider the issues impacting persons with HIV or AIDS and their families and caregivers; and

WHEREAS, the incidence of HIV and AIDS continues to increase and affects both rural and urban areas in Kentucky; and

WHEREAS, the membership of the HIV/AIDS Advisory Council is diverse and consists of persons with HIV or AIDS, health care workers, community-based caregivers, and state agency employees; and

WHEREAS, the HIV/AIDS Advisory Council has made recommendations to the Cabinet for Health Services and the General Assembly, but these recommendations have not yet been implemented; and

WHEREAS, the need for ongoing advice remains critical for a full and accurate assessment of the impact of HIV and AIDS in Kentucky and for the treatment and care of all persons affected;

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 General Assembly applauds the tireless dedication and commitment of the HIV/AIDS Advisory Council and urges the Council to continue to assist all Kentuckians with recommendations for the best services, care, and treatment relating to of HIV and AIDS.

Section 2. The General Assembly urges the Cabinet for Health Services to continue to provide for the administration of the HIV/AIDS Advisory Council as authorized by 2000 Ky. Acts ch. 432 (SB 227) and KRS 214.640, and to implement the Council's recommendations as appropriate for the needs and health care of all Kentuckians.

Section 3. The Clerk of the Senate shall transmit a copy of this Resolution to Marcia Morgan, Secretary, Cabinet for Health Services, 275 East Main Street, Frankfort, Kentucky 40601; and Ardis Hoven, M.D., Chairperson, HIV/AIDS Advisory Council, Cabinet for Health Services, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40601.

Approved March 12, 2003

CHAPTER 45

(HB 268)

AN ACT relating to licensing massage therapists.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 15 of this Act unless the context otherwise requires:

- (1) *"Board" means the Kentucky Board of Licensure for Massage Therapy;*
- (2) *"Board-approved massage program" means one which meets minimum standards for training and curriculum as determined by the board;*
- (3) *"Feldenkrais Method" means a system of somatic education in which touch and words are used to eliminate faulty habits, learn new patterns of self-organization and action, and improve a person's own functional movement patterns. The method is based on principles of physics, biomechanics and an understanding of, or learning about, human development. The practice is federally trademarked and requires permission from the Feldenkrais Guild to use the term and methodology;*
- (4) *"Massage therapist" means a person who is licensed by the board to administer massage or massage therapy to the public for compensation;*
- (5) *"Polarity therapy" means diverse applications affecting the human energy system. These applications include energetic approaches to somatic contact, verbal facilitation, nutrition, exercise, and health education. Polarity therapy does not make medical claims, diagnose physical ailments, or allow prescription of medications. Standards for schools, education, and practice, the administration of a code of ethics, and a registration process are provided by the American Polarity Therapy Association;*
- (6) *"Practice of massage therapy" means the application, by a massage therapist licensed by the board, of a system of structured touch, pressure, movement, and holding to the soft tissues of the human body with the intent to enhance or restore the health and well-being of the client. The practice includes the external application of water, heat, cold, lubricants, salt scrubs, or other topical preparations; use of electromechanical devices that mimic or enhance the actions of the hands; and determination of whether massage therapy is appropriate or contraindicated, or whether referral to another health care practitioner is appropriate; and*
- (7) *"Trager Approach" means a form of movement education that uses subtle directed movements and the skilled touch of a practitioner. The Trager Approach combines physical movement with sensory awareness and internal imagery designed to increase the client's self-awareness and generate physiological changes in the body tissues so as to allow the client to experience a new way of moving his or her body. The practice is federally trademarked.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

Massage therapists practicing under Sections 1 to 15 of this Act shall not perform any of the following: diagnosis of illness or disease; high-velocity, low-amplitude thrust applied to a joint; spinal or pelvic adjustment or chiropractic manipulation; deep physical agent modalities, except hydrotherapy methods; application of ultrasound; or prescription of medication.

SECTION 3. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 15 of this Act shall not preclude:

- (1) *Persons duly licensed, registered, or certified as massage therapists in another state or territory, the District of Columbia, or a foreign country when invited to this state to teach a course related to massage therapy or to consult with a person licensed under Sections 1 to 15 of this Act;*
- (2) *Students practicing massage therapy while enrolled in a program recognized by the board and completing a clinical requirement for graduation while under the supervision of a board-licensed massage therapist;*
- (3) *A person administering a massage to members of the person's immediate family;*
- (4) *Persons who restrict manipulation of the soft tissues of the human body to the hands, feet, or ears, and do not hold themselves out to be massage therapists;*
- (5) *Persons who use procedures within the scope of practice of their profession, which has established standards and ethics, provided that their services use touch, words, and directed movement to deepen awareness of existing patterns of movement in the body as well as to suggest new possibilities of movement while engaged, but who are not designated or implied to administer massage or to be massage therapists. These practices include, but are not limited to, the Feldenkrais Method, polarity therapy, and the Trager Approach;*
- (6) *Persons engaged within the scope of practice of a profession with established standards and ethics in which touch is limited to what is essential for palpation and affecting of the human energy system, provided that their services are not designated or implied to be massage or massage therapy;*
- (7) *Persons duly licensed, certified, or registered in another state or territory, the District of Columbia, or a foreign country when incidentally in this state to provide service as a part of an emergency response team working in conjunction with disaster relief officials or as part of a charity event;*
- (8) *Students participating in massage therapy classes or continuing education while in the classroom or practicing on a classmate and not holding themselves out as massage therapists or accepting compensation for the practice; or*
- (9) *Practitioners of the following occupations and professions regulated by state law while engaging in the practices for which they are duly licensed and while not holding themselves out to be massage therapists:*
 - (a) *Physicians, osteopaths, podiatrists, and athletic trainers regulated under KRS Chapter 311;*
 - (b) *Chiropractors regulated under KRS Chapter 312;*
 - (c) *Registered nurses and practical nurses regulated under KRS Chapter 314;*
 - (d) *Barbers and cosmetologists regulated under KRS Chapters 317 and 317A, respectively;*
 - (e) *Occupational therapists regulated under KRS Chapter 319A; and*
 - (f) *Physical therapists regulated under KRS Chapter 327.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

No person shall practice massage therapy or hold himself or herself out to be a massage therapist unless the person meets the educational and licensing requirements of Sections 9 and 11 of this Act and holds a valid license that has not been suspended or revoked.

- (1) *A licensed massage therapist may represent himself or herself as a massage therapist or licensed massage therapist and may use the abbreviations "M.T." or "L.M.T." as part of or immediately following his or her name to identify the profession.*
- (2) *It shall be unlawful for any person, or for any business entity, its employees, agents, or representatives to practice massage or massage therapy or to use in connection with his, her, or its name or business activity*

the words "massage," "massage therapy," "massage therapist," "massage practitioner," "masseur," or "masseuse," or the letters "M.T." or "L.M.T.," or any other words, letters, abbreviations or insignia indicating or implying directly or indirectly that massage therapy is provided or supplied unless massage therapy is provided by a massage therapist licensed and practicing in accordance with Sections 1 to 15 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

- (1) *There is created a board to be known as the Kentucky Board of Licensure for Massage Therapy, which shall be an independent agency attached to the Division of Occupations and Professions for administrative and clerical purposes.*
- (2) *The Governor shall appoint seven (7) members to serve on the board with the following representation:*
 - (a) *Five (5) members who are massage therapists licensed under Sections 1 to 15 of this Act, who have been in the practice of massage therapy for at least five (5) of the last seven (7) years prior to the effective date of this Act, and who are residents of Kentucky;*
 - (b) *Of these five (5), at least one (1) but no more than two (2) shall own or direct a board-approved massage therapy training program; and*
 - (c) *Two (2) members shall be appointed by the Governor and shall serve as members at large who are neither licensed massage therapists nor spouses of persons who are licensed, or have a direct or indirect interest in the profession regulated under Sections 1 to 15 of this Act. One (1) of the two (2) may hold a license in another health care profession.*
- (3) *Appointments shall be for three (3) years with initial appointments as follows: three (3) appointees shall serve three (3) year terms; two (2) shall serve two (2) year terms; and two (2) shall serve one (1) year terms. The Governor shall assign terms to initial members at his or her discretion.*
- (4) *The board shall elect initially, and annually thereafter, a chair, vice chair, and secretary from its membership and shall meet at least once per year, and more often as deemed necessary, at a time and at a place in Kentucky for the board to fulfill its duties.*
- (5) *Each member of the board shall receive a per diem not to exceed one hundred dollars (\$100) and other actual and necessary expenses for each day he or she is actually engaged in the discharge of the board's official duties.*
- (6) *Upon recommendation of the board, the Governor may remove any member of the board for a poor attendance record, neglect of duty, or malfeasance in office.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

- (1) *The board shall administer and enforce the provisions of Sections 1 to 15 of this Act and shall have the responsibility to evaluate the qualifications of applicants for licensure and to authorize issuing, renewing, suspending, and revoking licenses.*
- (2) *The board may institute civil and criminal proceedings against violators of Sections 1 to 15 of this Act, shall investigate alleged violations brought to its attention, and shall take appropriate action. The Attorney General, Commonwealth's attorneys, and county attorneys shall assist the board in prosecuting violations of Sections 1 to 15 of this Act.*
- (3) *The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, to carry out and enforce provisions of Sections 1 to 15 of this Act, including creating a code of ethical standards, standards of practice for licensed massage therapists, and continuing education requirements.*
- (4) *The board shall keep a record of its proceedings and a register of all persons licensed as massage therapists. The register shall include the name, license number and date of issue, last known place of business, and residence of each licensee. The board shall publish annually a directory of licensed massage therapists and their places of business. The list shall be available to any Kentucky citizen upon request and payment of a fee not to exceed the cost of the publication.*
- (5) *The board shall make an annual report to the Governor and the General Assembly, which shall contain an account of its duties performed, actions taken, and appropriate recommendations.*
- (6) *The board may seek an injunction in Franklin Circuit Court against any individual who practices massage therapy in the Commonwealth without a license.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

- (1) *All fees and other moneys received by the board pursuant to the provisions of Sections 1 to 15 of this Act shall be deposited in the State Treasury to the credit of a revolving fund for the use of the board.*
- (2) *No part of this revolving fund shall revert to the general funds of this Commonwealth.*
- (3) *The compensation of members of the board and all of the employees of the board and all expenses incurred by the board shall be paid from this revolving fund.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

The following fees shall be required of licensees and prospective applicants:

- (1) *Application fee of fifty dollars (\$50), which shall be credited to the initial license fee for successful applicants;*
- (2) *Initial, nonrefundable license fee not to exceed one hundred twenty-five dollars (\$125);*
- (3) *Biennial renewal fees not to exceed one hundred dollars (\$100);*
- (4) *Late renewal fees not to exceed one hundred fifty dollars (\$150); and*
- (5) *Within sixty (60) days of the date of reinstatement, fees not to exceed two hundred dollars (\$200).*

SECTION 9. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

- (1) *Between the effective date of this Act and the date two (2) years following the effective date of this Act, the board shall issue an initial license as a massage therapist to an applicant who:*
 - (a) *Is eighteen (18) years of age or older;*
 - (b) *Has paid the application fee and other fees required by the board;*
 - (c) *Is a person of good moral character;*
 - (d) *Has successfully completed a course of study consisting of a minimum of five hundred (500) classroom hours of supervised instruction in a massage therapy training program approved by the board; and*
 - (e) *Has successfully passed an examination administered by a certifying agency that has been approved by the National Commission for Certifying Agencies.*
- (2) *On and after the date two (2) years following the effective date of this Act, the board may issue a license as a massage therapist to an applicant who:*
 - (a) *Is eighteen (18) years of age or older;*
 - (b) *Has paid the application fee and other fees required by the board;*
 - (c) *Is a person of good moral character;*
 - (d) *Has successfully completed a course of study consisting of a minimum of six hundred (600) classroom hours of supervised instruction in a massage therapy training program approved by the board; and*
 - (e) *Has successfully passed an examination administered by a certifying agency that has been approved by the National Commission for Certifying Agencies.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

The board may grant a license to any person who is licensed, certified, or registered in another state or country that has standards at least as stringent as those required by Section 9 of this Act. Applicants who are not from a state that has standards at least as stringent as those required by Section 9 of this Act may appeal to the board for a hearing to determine if their experience and education meet the criteria.

SECTION 11. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

Between the effective date of this Act and the date two (2) years following the effective date of this Act, the board shall issue a license to an applicant who meets the requirements of paragraphs (a), (b), and (c) of subsection (1) of Section 9 of this Act and one (1) of the following:

- (1) Has successfully completed a course of study consisting of a minimum of five hundred (500) classroom hours of supervised instruction in a massage therapy training program approved by the Kentucky State Board for Proprietary Education or its equivalent in other states;*
- (2) Has received the designation of "Nationally Certified" or "Internationally Certified" by the National Certification Board for Therapeutic Massage and Bodywork or other massage therapist certifying agency approved by the National Commission for Certifying Agencies;*
- (3) Has provided documentation satisfactory to the board that the applicant has practiced massage therapy for at least seven (7) years prior to the effective date of this Act;*
- (4) Has provided documentation satisfactory to the board that the applicant has practiced massage therapy for at least one (1) year and has completed two hundred (200) hours of formal training; or*
- (5) Holds a current and valid license, certificate, or registration in another state with substantially equivalent requirements.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

When renewing a license, each licensee shall document the successful completion of the required board-approved continuing education credits. Twenty-four (24) hours of training shall be required for each two (2) year renewal period. A maximum of twelve (12) additional hours may be carried over into the next renewal period. Courses may include ethics, business practices, science, and techniques related to massage therapy.

SECTION 13. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

- (1) The board may deny or refuse to renew a license, may suspend or revoke a license, may issue an administrative reprimand, or may impose probationary conditions when the licensee or applicant has engaged in unprofessional conduct that has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include the following:*
 - (a) Obtaining or attempting to obtain a license by fraud, misrepresentation, concealment of material facts, or making a false statement to the board;*
 - (b) Being convicted of a felony in any court if the act or acts for which the licensee or applicant for license was convicted are determined by the board to have a direct bearing on whether the person is trustworthy to serve the public as a licensed massage therapist. "Conviction," as used in this paragraph, shall include a finding or verdict of guilty, an admission of guilt, or a plea of nolo contendere in a court of law;*
 - (c) Violating any lawful order or administrative regulation promulgated by the board;*
 - (d) Violating any provision of this chapter;*
 - (e) Having sexual contact as defined by KRS 510.010(7) with a client or having engaged or attempted to engage in lewd or immoral conduct with any client or patient;*
 - (f) Engaging in fraud or material deception in the delivery of professional services, including reimbursement or advertising services, in a false or misleading manner; or*
 - (g) Evidence of gross negligence or gross incompetence in the practice of massage therapy.*
- (2) The board may, at its discretion, deny, refuse to renew, suspend or revoke a license, or impose probationary conditions following an administrative hearing pursuant to KRS Chapter 13B and in accordance with administrative regulations promulgated by the board.*
- (3) The surrender of a license shall not deprive the board of jurisdiction to proceed with disciplinary actions under Sections 1 to 15 of this Act.*

SECTION 14. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

- (1) A person, institution, or business entity desiring to have the board determine the standing of a massage therapy program of instruction shall file a completed application for a certificate of good standing with the*

board on a form prescribed by the board. The completed application shall provide proof acceptable to the board that the following criteria have been met:

- (a) *The program is licensed to operate by the Kentucky State Board of Proprietary Education or its equivalent in another state;*
- (b) *A curriculum statement showing clock hours devoted to each subject with the following minimums:*
 - 1. *One hundred (100) hours of anatomy, physiology, or pathology;*
 - 2. *A two hundred (200) hour course to include massage theory, technique, and practice focusing on gliding strokes, kneading, direct pressure, deep friction, joint mobilization, superficial warming techniques, percussion, compression, vibration, jostling, shaking, and rocking; and*
 - 3. *Two hundred (200) hours of approach to the business of massage, specifically including contraindications, benefits, business, history, ethics, legalities of massage, and courses designed to meet the school's specific program objectives.*

The board may use its discretion in allotting the additional one hundred (100) curricular hours that are required under Section 9 of this Act;

- (c) *A listing of instructional staff and their qualifications showing a minimum educational equivalent for each instructor and aide for licensure under Sections 1 to 15 of this Act, or proof of qualifying for issuance of a license under Section 10 of this Act. Instructors in the practical courses shall be required to have three (3) years of experience in the practice of massage therapy.*
- (2) *The board shall accept National Certification Board for Therapeutic Massage and Bodywork guidelines in approving continuing education.*

SECTION 15. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

- (1) *Sections 1 to 15 of this Act supersede all ordinances or regulations regulating massage therapists in any city, county, urban-county, charter county, or consolidated local government.*
- (2) *This article does not affect city, county, urban-county, charter county, or consolidated local government regulations relating to zoning requirements or occupational license fees pertaining to health care professions.*

Approved March 12, 2003

CHAPTER 46

(SB 145)

AN ACT relating to Medicaid and declaring an emergency.

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

Section 1. KRS 205.6312 is amended to read as follows:

- (1) The cabinet shall institute nominal copayments or similar charges to be paid by medical assistance recipients, their spouses, or parents, under the provisions of Section 1916 of Title XIX of the Federal Social Security Act, 42 U.S.C. sec. 1396o.
- (2) Copayments or similar charges shall not be imposed for the following services:
 - (a) All services provided to children under eighteen (18) years of age;
 - (b) All services furnished to pregnant women, if the services relate to the pregnancy or to any other medical condition which may complicate the pregnancy;
 - (c) Emergency services including hospital, clinic, office, or other facility services which are necessary to prevent the death or serious impairment of the individual;
 - (d) Services furnished to institutionalized individuals if the individual is required, as a condition of receiving services, to spend all but a minimal amount of income for personal needs;

- (e) Services furnished for an individual who is receiving hospice care as defined under Section 1905 of Title XIX of the Federal Social Security Act, 42 U.S.C. sec. 1396d(o); and
 - (f) Other services excluded from cost sharing by federal law or regulation.
- (3) ~~Prepaid health plan programs, such as health maintenance organizations and health insuring organizations under contract with the cabinet to provide services to medical assistance recipients, shall not be subject to the requirements of this section.~~
- (4) ~~Standard nominal copayments per service, not to exceed amounts allowable under Section 1916 of Title XIX of the Federal Social Security Act, 42 U.S.C. sec. 1396o shall be collected by the provider and charged for the following services:~~
- (a) Ambulance services which are provided to recipients in need of nonemergency health transportation services;
 - (b) Nonemergency services delivered in a hospital emergency room; and
 - (c) Prescription and over-the-counter drugs, subject to the limitation under subsection (6) ~~(7)~~ of this section.
- (4) ~~(5)~~ No provider participating in the Medical Assistance Program shall deny services to any eligible recipient due to the inability of a recipient to make the required copayment. This provision shall not excuse the recipient from liability for payment of the charge.
- (5) ~~(6)~~ The cabinet shall promulgate administrative regulations under KRS Chapter 13A to implement the provisions of this section.
- (6) ~~(7)~~ Any copayment for a prescription or over-the-counter drug shall not exceed one dollar (\$1).

Section 2. Whereas it is important the Commonwealth of Kentucky take immediate action to improve the financial solvency of the Medicaid program, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon otherwise becoming a law.

Approved March 12, 2003

CHAPTER 47

(SB 164)

AN ACT relating to controlled burns.

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

Section 1. KRS 149.400 is amended to read as follows:

- (1) The periods commencing on February 15 and ending on April 30 and commencing on October 1 and ending on December 15 of each year are hereby declared to be and established as the fire hazard seasons. During the fire hazard seasons, even though the precautions required by KRS 149.375 shall have been taken, it shall be unlawful for any person to set fire to, or to procure another to set fire to, any flammable material capable of spreading fire, located in or within one hundred fifty feet (150') of any woodland or brushland, except between the hours of 6:00 p.m. and 6:00 a.m., prevailing local time, or when the ground is covered with snow.
- (2) This section shall not apply to fires which may be set for the purpose of burning plant beds.
- (3) This section shall not apply to fires which may be set by competent and qualified employees of railroad, utility, or pipeline companies in connection with the construction, operation, or maintenance of railroads, pipelines, powerlines, or other projects in the public interest on rights-of-way used for such railroads, pipelines, powerlines, or other projects, and such fires shall be attended at all times and be extinguished before the employees of such railroad, utility, or pipeline companies leave the vicinity of the fire.
- (4) This section shall not apply to fires set by trained and qualified employees of a state government agency on land owned **by the state or leased or managed by the state under a written agreement with the landowner** ~~or leased by the state,~~ and set for the specific purpose of wildlife or plant habitat improvement, ecological site restoration, site preparation for natural or artificial regeneration or fuel reduction. Nongovernmental organizations **and other governmental agencies** may apply to the Division of Forestry for written approval to

set fires under this subsection. Fires set under this subsection shall be in accordance with KRS 149.375. Persons who set such fires shall give written notification of the burn to the local Division of Forestry district office at least twenty-four (24) hours in advance and obtain the approval of the district office.

Approved March 12, 2003

CHAPTER 48

(SB 88)

AN ACT relating to breast cancer.

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

Section 1. KRS 214.554 is amended to read as follows:

- (1) There is established within the department a Breast Cancer Screening Program for the purposes of:
 - (a) Reducing morbidity and mortality from breast cancer in women through early detection and treatment; and
 - (b) Making breast cancer screening services of high quality and reasonable cost available to women of all income levels throughout the Commonwealth and to women whose economic circumstances or geographic location limits access to breast cancer screening facilities.
- (2) Services provided under the Breast Cancer Screening Program may be undertaken by private contract for services or operated by the department and may include the purchase, maintenance, and staffing of a truck, a van, or any other vehicle suitably equipped to perform breast cancer screening. The program may also provide referral services for the benefit of women for whom further examination or treatment is indicated by the breast cancer screening.
- (3) The department may adopt a schedule of income-based fees to be charged for the breast cancer screening. The schedule shall be determined to make screening available to the largest possible number of women throughout the Commonwealth. The department shall, where practical, collect any available insurance proceeds or other reimbursement payable on behalf of any recipient of a breast cancer screening under KRS 214.552 to 214.556 and may adjust the schedule of fees to reflect insurance contributions. All fees collected shall be credited to the fund.
- (4) The department may accept any grant or award of funds from the federal government or private sources for carrying out the provisions of KRS 214.552 to 214.556.
- (5) For the purpose of developing and monitoring the implementation of guidelines for access to and the quality of the services of the Breast Cancer Screening Program, there is hereby created a Breast Cancer Advisory Committee to the commissioner of the Department for Public Health which shall include the directors of the James Graham Brown Cancer Center and the Lucille Parker Markey Cancer Center, the director of the Kentucky Cancer Registry, ***the executive director of the Office of Women's Physical and Mental Health***, one (1) radiologist with preference given to one who has been fellowship-trained in breast diagnostics and who shall be appointed by the Governor, one (1) representative of the Kentucky Office of Rural Health appointed by the Governor, one (1) representative of the Kentucky Commission on Women appointed by the Governor, and at least three (3) women who have had breast cancer and who shall be appointed by the Governor.
- (6) The commissioner of the Department for Public Health, in consultation with the Breast Cancer Advisory Committee, shall annually, but no later than November 1 of each year, make a report to the Governor, the Legislative Research Commission, and the Interim Joint Committees on Appropriations and Revenue and on Health and Welfare on the:
 - (a) Implementation and outcome from the Breast Cancer Screening Program including, by geographic region, numbers of persons screened, numbers of cancers detected, referrals for treatment, and reductions in breast cancer morbidity and mortality;
 - (b) Development of quality assurance guidelines, including timetables, for breast cancer screening under this section, and monitoring of the manner and effect of implementation of those guidelines; and

- (c) Funds appropriated, received, and spent for breast cancer control by fiscal year.

Approved March 12, 2003

CHAPTER 49

(SB 85)

AN ACT relating to the availability of postsecondary textbooks and instructional materials in accessible forms for students with disabilities.

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) *As used in this section, unless the context requires otherwise:*
- (a) *"Alternative format" means any medium or format for the presentation of instructional materials other than standard print needed by a student with a disability for a reading accommodation, including but not limited to braille, large print texts, audio recordings, digital texts, and digital talking books;*
 - (b) *"Instructional material" means a textbook or other material published primarily for use by students in a course of study in which a student with a disability is enrolled that is required or essential to a student's success, as determined by the course instructor. "Instructional material" includes nontextual mathematics and science material to the extent that software is commercially available to permit the conversion of the electronic file of the material into a format that is compatible with assistive technologies such as speech synthesis software or braille translation software commonly used by students with disabilities;*
 - (c) *"Nonprinted instructional material" means instructional material in a format other than print, including instructional material that requires the availability of electronic equipment in order to be used as a learning resource, including but not limited to software programs, videodiscs, videotapes, and audio tapes;*
 - (d) *"Printed instructional material" means instructional material in book or other printed form;*
 - (e) *"Publisher" means an individual, firm, partnership, corporation, or other entity that publishes or manufactures instructional material used by students attending a public or independent postsecondary education institution in Kentucky;*
 - (f) *"State Repository for Alternative Format Instructional Materials" or "repository" means a consortium established or otherwise designated by the Council on Postsecondary Education under subsection (8) of this section to serve as a state repository for electronic files or alternative format instructional materials obtained from publishers, created by institutions, or received through other means;*
 - (g) *"Structural integrity" means the inclusion of all of the information provided in printed instructional material, including but not limited to the text of the material sidebars, the table of contents, chapter headings and subheadings, footnotes, indexes, and glossaries, but need not include nontextual elements such as pictures, illustrations, graphs, or charts; and*
 - (h) *"Working day" means a day that is not Saturday, Sunday, or a national holiday.*
- (2) *The purpose of this section is to ensure, to the maximum extent possible, that all postsecondary students with a disability in Kentucky requiring reading accommodations, in accordance with Section 504 of the Rehabilitation Act, 29 U.S.C. sec. 794, or the Americans with Disabilities Act, 42 U.S.C. secs. 12101 et seq., including but not limited to students who are blind, are visually impaired, or have a specific learning disability or other disability affecting reading, shall have access to instructional materials in alternative formats that are appropriate to their disability and educational needs.*
- (3) *A publisher shall, upon fulfillment of the requirements of subsections (6) and (7) of this section, provide to a postsecondary education institution or to the State Repository for Alternative Format Instructional Materials, at no cost:*
- (a) *Printed instructional material in an electronic format; and*

- (b) *Nonprinted instructional material in an electronic format, when the technology is available to maintain the material's structural integrity.*
- (4) *Instructional material provided by a publisher in electronic format shall:*
 - (a) *Maintain the structural integrity of the original instructional material, except as provided for in paragraph (b) subsection (3) of this section;*
 - (b) *Be compatible with commonly used braille translation and speech synthesis software;*
 - (c) *Include corrections and revisions as may be necessary; and*
 - (d) *Be in a format that is mutually agreed upon by the publisher and the requesting institution or the State Repository for Alternative Format Instructional Materials. If good faith efforts fail to produce an agreement as to an electronic format that will preserve the structural integrity of the instructional material, the publisher shall provide the instructional material in XML (Extensible Markup Language), utilizing an appropriate document-type definition suitable for the creation of alternative format materials, and shall preserve as much of the structural integrity of the original instructional material as possible.*
- (5) *The publisher shall transmit or otherwise send an electronic format version of requested instructional material within fifteen (15) working days of receipt of an appropriately completed request. Should this timetable present an undue burden for a publisher, the publisher shall submit within the fifteen (15) working day period a statement to the requesting entity certifying the expected date for transmission or delivery of the file.*
- (6)
 - (a) *To receive an electronic format version of instructional material, a written request shall be submitted to the publisher that certifies:*
 - 1. *The instructional material has been purchased for use by a student with a disability by the student or the institution the student attends or is registered to attend;*
 - 2. *The student has a disability that prevents the student from using the standard instructional material; and*
 - 3. *The instructional material is for use by the student in connection with a course in which he or she is registered or enrolled.*
 - (b) *A publisher may also require a statement signed by the student, or if the student is a minor, the student's parent or legal guardian, agreeing that the student will:*
 - 1. *Use the electronic copy of the instructional material solely for his or her own educational purposes; and*
 - 2. *Not copy or distribute the instructional material for use by others.*
- (7) *The request for an electronic format version of instructional material shall be prepared and signed by:*
 - (a) *The coordinator of services for students with a disability at the institution;*
 - (b) *A representative of the Department for the Blind;*
 - (c) *A representative of the Department of Vocational Rehabilitation; or*
 - (d) *A representative of the State Repository for Alternative Format Instructional Materials.*
- (8) *The Council on Postsecondary Education may, to the extent funds are available, establish or otherwise designate a consortium to be called the State Repository for Alternative Format Instructional Materials to serve as a state repository for electronic files and alternative format materials for the purpose of facilitating the timely access of appropriate alternative instructional materials by postsecondary students with a disability.*
- (9) *The Council on Postsecondary Education may promulgate administrative regulations governing the implementation and administration of this section.*

- (10) *The council shall work with representatives of each postsecondary institution to develop policies and procedures designed to ensure to the maximum extent possible that students with disabilities have access to instructional materials in appropriate alternative formats within the first week of class.*
- (11) *The council, in consultation with appropriate entities, including but not limited to the Department for the Blind, the Kentucky Assistive Technology Service Network, Recording for the Blind and Dyslexic, and the Kentucky Association on Higher Education and Disability, shall include within its annual status report on postsecondary education in Kentucky a continuing assessment of the need for statewide technical assistance, training, and other supports designed to increase the availability and effective use of alternative format instructional materials.*
- (12) *The State Repository for Alternative Format Instructional Materials or the council may receive electronic files and alternative format materials from:*
 - (a) *Publishers;*
 - (b) *Postsecondary education institutions that have created alternative materials for use by a student with a disability;*
 - (c) *The Kentucky Department of Education, receiving electronic files from publishers under the requirements of KRS 156.027; or*
 - (d) *Other sources.*
- (13) *The repository or the council shall, upon receipt of documents as set forth in subsection (6) of this section, provide at no cost copies of electronic files and alternative format materials to:*
 - (a) *Postsecondary education institutions in Kentucky; and*
 - (b) *The Kentucky Department of Education, to assist in the implementation of the requirements of KRS 156.027.*
- (14) *The repository shall provide to a publisher, upon request:*
 - (a) *A summary of all electronic or alternative format versions of instructional material from that publisher provided to students, postsecondary education institutions, and the Kentucky Department of Education from its holdings; and*
 - (b) *Copies of requests and related certification documents received for instructional materials from that publisher.*
- (15) *The repository or the council may submit requests for electronic files to publishers on behalf of institutions.*
- (16) (a) *A postsecondary education institution or an educational instructor, assistant, or tutor may assist a student with a disability by using the electronic format version of instructional material as provided by this section solely to transcribe or arrange for the conversion of the instructional material into an alternative format, or to otherwise assist the student.*
 - (b) *If an alternative format version of instructional material is created, an institution may, for the purpose of providing the version to other students with disabilities, share that version with:*
 - 1. *The repository;*
 - 2. *A Kentucky postsecondary education institution serving a student with a disability; and*
 - 3. *An authorized entity as defined under 17 U.S.C. sec. 121 that commonly provides alternative format materials for use by students in Kentucky institutions.*
- (17) *The disk or file of an electronic format version of instructional material used directly by a student shall be copy-protected, or reasonable precautions shall be taken by the institution to ensure that the student does not copy or distribute the electronic format version in violation of the Copyright Revisions Act of 1976, as amended, 17 U.S.C. secs. 101 et seq.*
- (18) *Nothing in this section shall be deemed to authorize any use of instructional materials that would constitute an infringement of copyright under the Copyright Revision Act of 1976, as amended, 17 U.S.C. secs. 101 et seq.*
- (19) *Nothing in this section shall absolve covered entities from the obligation to provide equivalent access to information technology and software as set forth in KRS 61.982.*

- (20) *A publisher shall be considered a place of public accommodation for the purposes of KRS 344.130. Failure to comply with the requirements of this section shall be an unlawful practice of discrimination on the basis of disability for the purposes of KRS 344.120.*

Section 2. This Act may be cited as the Kentucky Postsecondary Textbook Accessibility Act.

Approved March 12, 2003

CHAPTER 50

(HJR 116)

A JOINT RESOLUTION petitioning the United States Congress to propose an Amendment to the Constitution of the United States, for submission to the several States, to allow the people of the United States and the several States the freedom to exercise their religion in public places.

WHEREAS, the Ten Commandments appear over the bench where the United States Supreme Court Justices sit, thus showing the source from whence our laws and the government power of the state are derived; and

WHEREAS, America's colonial governments adopted the Ten Commandments not as an object of worship or an icon, but as the basis for their civil and criminal law, as illustrated on April 3, 1644, when the New Haven Colony Charter was adopted establishing that: "the judicial laws of God, as they were delivered to Moses be a rule to all courts in this jurisdiction"; and

WHEREAS, when signing the Declaration of Independence on August 2, 1776, Samuel Adams, the "Father of the Revolution" emphasized its Biblical presuppositions: "We have this day restored the Sovereign to whom all men ought to be obedient. He reigns in heaven and from the rising to the setting of the sun, let His kingdom come"; and

WHEREAS, on August 20, 1789, Congressman Fisher Ames from Massachusetts proposed the wording of the First Amendment which was adopted by the House of Representatives in the first session of the Congress of the United States; and his writings clearly demonstrate that the Framers never intended the First Amendment to be so interpreted as to remove the Bible from the public buildings: "We are spending less time in the classroom on the Bible which should be the principal text in our schools ..."; and

WHEREAS, in a letter dated August 18, 1790, President George Washington wrote to the Hebrew Congregation in Newport, Rhode Island, "All possess alike liberty of conscience and immunities of citizenship... May the children of the stock of Abraham, who dwell in this land, continue to merit and enjoy the good will of the other inhabitants; while every one shall sit in safety under his own vine and fig tree, and there shall be none to make him afraid"; and

WHEREAS, in his "Farewell Address" of September 19, 1796, George Washington pointed out the connection between the faith of the Nation and its political prosperity when he declared: "Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports ..."; and

WHEREAS, acknowledging the Bible as an integral part of the fabric of our society on September 11, 1777, the Continental Congress adopted a resolution to import 20,000 Bibles from Holland and Scotland, as the colonies were at war with England; and

WHEREAS, on May 29, 1845, the day before his death, President Andrew Jackson stated: "My lamp of life is nearly out, and the last glimmer has come. I am ready to depart when called. The Bible is true. The principles and statutes of the Holy Book have been the rule of my life, and I have tried to conform to its spirit as nearly as possible. Upon that sacred volume I rest my hope for eternal salvation, through the merits and blood of our blessed Lord and Savior, Jesus Christ"; and

WHEREAS, President John Quincy Adams, the sixth President of the United States, wrote concerning the civil function of the Mosaic law: "The law given from Sinai was a civil and municipal as well as a moral and religious code: it contained many statutes ...of universal application – laws essential to the existence of men in society and most of which have been enacted by every nation which ever professed any code of laws"; and

WHEREAS, in a June, 1778 letter to her son, John Quincy Adams, Abigail Adams reinforced noble values and a sense of ultimate accountability to God which she believed to be the foundation of true greatness: "Great learning and superior abilities, should you ever possess them, will be of little value and small estimation, unless virtue, honor,

truth, and integrity are added to them. Adhere to those religious sentiments and principles which were early instilled into your mind, and remember that you are accountable to your Maker for all your words and actions"; and

WHEREAS, on February 29, 1892, the United States Supreme Court, in a unanimous decision, which has never been overruled, cited sixty-six organic authorities which show the Bible's singular influence on America: "There is no dissonance in these declarations. There is a universal language pervading them all having one meaning: they affirm and reaffirm that this is a religious nation. These are not individual sayings, declarations of private persons; they are organic utterances; they speak the voice of the entire group. These authorities were collected to support the historical conclusion that 'no purpose of action against religion can be imputed any legislation, state or nation, because this is a religious people. This is historically true. From the discovery of this continent to the present hour, there is a single voice making this affirmation ... we find everywhere a clear recognition of the same truth ...this is a Christian nation'"; and

WHEREAS, on May 7, 1911, President Woodrow Wilson, addressing the Tercentenary Celebration of the Translation of the Bible into the English language, stated, "Moreover, the Bible does what is so invaluable in human life – it classifies moral values. It appries us that men are not judged according to their wits, but according to their characters – that the last of every man's reputation is his truthfulness, his squaring his conduct with the standards that he knew to be the standards of purity and rectitude. How many a man we appraise, ladies and gentlemen, as great today whom we do not admire as noble! A man may have great power and small character"; and "The Bible has had a critical impact upon the development of Western civilization. Western literature, art and music are filled with images and ideas that can be traced to its pages. More important, our moral tradition has been shaped by the laws and teachings it contains. It was a biblical view of man – one affirming the dignity and worth of the human person, made in the image of our Creator – that inspired the principles upon which the United States is founded. President Jackson called the Bible 'the rock on which our republic rests' because he knew that it shaped the Founding Fathers' concept of individual liberty and their vision of a free and just society. The Bible has not only influenced the development of our Nation's values and institutions, but also enriched the daily lives of millions of men and women who have looked to it for comfort, hope and guidance. On the American frontier, the Bible was often the only book a family owned. For those pioneers living far from any church or school, it served both as a source of religious instruction and as the primary text from which children learned to read. The historical speeches of Abraham Lincoln and Dr. Martin Luther King, Jr. provide compelling evidence of the role Scripture played in shaping the struggle against slavery and discrimination. Today the Bible continues to give courage and direction to those who seek truth and righteousness. In recognizing its enduring value, we recall the words of the prophet Isaiah, who declared 'The grass withereth, the flower fadeth; but the word of our God shall stand forever.' Containing revelations of God's intervention in human history, the Bible offers moving testimony to His love for mankind. Treasuring the Bible as a source of knowledge and inspiration, President Abraham Lincoln called this Great Book 'the best gift God has given to man.' President Lincoln believed that the Bible not only reveals the infinite goodness of our Creator, but also reminds us of our worth as individuals and our responsibilities toward one another"; and

WHEREAS, the First Amendment in the Bill of Rights states, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances"; and

WHEREAS, recent court rulings have prevented the displaying of the Ten Commandments and have been the cause of the removal of these documents from public buildings; and

WHEREAS, eighty percent of the people are in favor of displaying the Ten Commandments in public places; and

WHEREAS, the General Assembly finds the Ten Commandments to be the precedent legal code of the Commonwealth which has provided the foundation for many of the civil and criminal statutes enacted into law throughout the history of the Commonwealth; and

WHEREAS, under Article V of the Constitution of the United States, Amendments to said Constitution may be proposed by the United States Congress whenever two-thirds of both chambers deem it necessary;

NOW, THEREFORE,

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

Section 1. The General Assembly of the Commonwealth of Kentucky, a majority of all members of the chambers voting separately to concur herein, hereby petitions the United States Congress to propose an Amendment to the Constitution of the United States, for submission to the several States for ratification, to allow the people of the United States and the several States the freedom to exercise their religion in public places.

Section 2. The text of the proposed Amendment to the Constitution of the United States should read substantially as follows:

"Nothing in the Constitution shall be construed to prohibit or otherwise limit the practice of individual or group prayer, the reading or the posting of the Ten Commandments, the recital of the Pledge of Allegiance, and the display of the motto 'In God We Trust' or similar phrases from historical documents referencing God in any public place, including a school; nor shall it require any person to join in prayer or other religious activity."

Section 3. Certified copies of this joint resolution shall be transmitted by the Secretary of State to the Administrator of General Services of the United States, to the President of the United States Senate, to the Speaker of the House of Representatives of the United States, to each member of the Commonwealth's delegation to the Congress of the United States, and to the presiding officer of each house of each state legislature of the several States.

Approved March 12, 2003

CHAPTER 51

(HB 459)

AN ACT relating to health care practitioners.

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

Section 1. KRS 217.015 is amended to read as follows:

For the purposes of KRS 217.005 to 217.215:

- (1) "Advertisement" means all representations, disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;
- (2) "Bread" and "enriched bread" mean only the foods commonly known and described as white bread, white rolls, white buns, enriched white bread, enriched rolls, and enriched white buns, as defined under the federal act;
- (3) "Cabinet" means the Cabinet for Health Services or its designee;
- (4) "Color" means but is not limited to black, white, and intermediate grays;
- (5) "Color additive" means a material that:
 - (a) Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source. Nothing in this paragraph shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest; or
 - (b) When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with another substance, of imparting color. "Color additive" does not include any material that has been or may in the future be exempted under the federal act;
- (6) "Contaminated with filth" means any food, drug, device, or cosmetic that is not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminants;
- (7) "Cosmetic" means:
 - (a) Articles intended to be rubbed, poured, sprinkled, sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and
 - (b) Articles intended for use as a component of those articles, except that the term shall not include soap;
- (8) "Device," except when used in subsection (48) of this section, KRS 217.035(6), KRS 217.065(3), KRS 217.095(3), and KRS 217.175(10), means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended:

- (a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or
 - (b) To affect the structure or any function of the body of man or other animals;
- (9) "Dispense" means to deliver a drug or device to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;
- (10) "Dispenser" means a person who lawfully dispenses a drug or device to or for the use of an ultimate user;
- (11) "Drug" means:
- (a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;
 - (b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;
 - (c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and
 - (d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;
- (12) "Enriched," as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of enriched flour as defined under the federal act;
- (13) "Environmental Pesticide Control Act of 1972" means the Federal Environmental Pesticide Control Act of 1972, Pub. L. 92-516, and all amendments thereto;
- (14) "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and cosmetics, 15 U.S.C. secs. 1451 et seq., and all amendments thereto;
- (15) "Federal act" means the Federal Food, Drug and Cosmetic Act, 21 U.S.C. secs. 301 et seq., 52 Stat. 1040 et seq., or amendments thereto;
- (16) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of substances used for flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed. This definition does not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if the compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending, or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;
- (17) "Flour" means only the foods commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;
- (18) "Food" means:
- (a) Articles used for food or drink for man or other animals;
 - (b) Chewing gum; and
 - (c) Articles used for components of any such article;
- (19) "Food additive" means any substance the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food,

including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any of these uses, if the substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that the term does not include:

- (a) A pesticide chemical in or on a raw agricultural commodity;
 - (b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity;
 - (c) A color additive; or
 - (d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq.; or the Meat Inspection Act of 1907; and amendments thereto;
- (20) "Food processing establishment" means any commercial establishment in which food is manufactured, processed, or packaged for human consumption, but does not include retail food establishments;
- (21) "Food service establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; charitable food kitchens; or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It does not include food vending machines, establishments serving beverages only in single service or original containers, or retail food stores which only cut, slice, and prepare cold-cut sandwiches for individual consumption;
- (22) "Food storage warehouse" means any establishment in which food is stored for subsequent distribution;
- (23) "Immediate container" does not include package liners;
- (24) "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent illness or injury based on:
- (a) The number of potential illnesses or injuries; or
 - (b) The nature, severity, and duration of the anticipated illness or injury;
- (25) "Interference" means threatening or otherwise preventing the performance of lawful inspections or duties by agents of the cabinet during all reasonable times of operation;
- (26) "Label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of the article, or is easily legible through the outside container or wrapper;
- (27) "Labeling" means all labels and other written, printed, or graphic matter:
- (a) Upon an article or any of its containers or wrappers; or
 - (b) Accompanying the article;
- (28) "Legend drug" means a drug defined by the Federal Food, Drug and Cosmetic Act, as amended, and under which definition its label is required to bear the statement "Caution: Federal law prohibits dispensing without prescription.";
- (29) "Meat Inspection Act" means the Federal Meat Inspection Act, 21 U.S.C. secs. 71 et seq., 34 Stat. 1260 et seq., including any amendments thereto;
- (30) "New drug" means:

- (a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or
 - (b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under prescribed conditions, has become so recognized, but which has not, otherwise than in the investigations, been used to a material extent or for a material time under the conditions;
- (31) "Official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them;
- (32) "Person" means an individual, firm, partnership, company, corporation, trustee, association, or any public or private entity;
- (33) "Pesticide chemical" means any substance that alone in chemical combination, or in formulation with one or more other substances, is an "economic poison" within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act and amendments thereto, and that is used in the production, storage, or transportation of raw agricultural commodities;
- (34) "Poultry Products Inspection Act" means the Federal Poultry and Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq., Pub. L. 85-172, 71 Stat. 441, and any amendments thereto;
- (35) "Practitioner" means medical or osteopathic physicians, dentists, chiroprodists, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices. "Practitioner" includes optometrists when administering or prescribing pharmaceutical agents authorized in KRS 320.240(12) to (14), advanced registered nurse practitioners as authorized in KRS 314.011 and 314.042, {~~and~~} physician assistants when administering or prescribing pharmaceutical agents as authorized in KRS 311.858, ***and health care professionals who are residents of and actively practicing in a state other than Kentucky and who are licensed and have prescriptive authority under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated in which case the terms of the Kentucky license shall prevail;***
- (36) "Prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, that is signed, given, or authorized by a medical, dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;
- (37) "Prescription blank" means a document that conforms with KRS 217.216 and is intended for prescribing a drug to an ultimate user;
- (38) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;
- (39) "Retail food establishment" means any food service establishment, retail food store, or a combination of both within the same establishment;
- (40) "Retail food store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but does not include establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, or food processing establishments;
- (41) "Salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise trafficking in any salvaged merchandise;
- (42) "Salvage processing plant" means an establishment operated by a person engaged in the business of reconditioning, labeling, relabeling, repackaging, recoopering, sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifices, cosmetics, single-service food containers or utensils, containers and packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a similar nature that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means;
- (43) "Second or subsequent offense" has the same meaning as it does in KRS 218A.010;

- (44) "Secretary" means the secretary of the Cabinet for Health Services;
- (45) "Temporary food service establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days;
- (46) "Traffic" has the same meaning as it does in KRS 218A.010;
- (47) "Ultimate user" has the same meaning as it does in KRS 218A.010;
- (48) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts that are material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under the conditions of use as are customary or usual;
- (49) The representation of a drug in its labeling or advertisement as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body; and
- (50) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of those articles for sale, the sale, dispensing, and giving of those articles, and the supplying or applying of those articles in the conduct of any food, drug, or cosmetic establishment.

Section 2. KRS 217.814 is amended to read as follows:

The following words and phrases, as used in KRS 217.815 to 217.826, shall have the following meanings, unless the context requires otherwise:

- (1) "Brand name" means the name that a manufacturer of a drug or pharmaceutical places on the container thereof at the time of packaging.
- (2) "Generic name" means the chemical or established name of a drug or pharmaceutical.
- (3) "Practitioner" ***has the same meaning as in Section 1 of this Act***~~means any person licensed under the professional laws of this state to prescribe and administer medicine and drugs~~.
- (4) "Pharmacist" means any person licensed as such by the Kentucky Board of Pharmacy.
- (5) "Equivalent drug product" means a product with the same generic name, active ingredients, strength, quantity and dosage form as the drug product identified in a prescription.
- (6) "Board" means the Kentucky Board of Pharmacy.
- (7) "Nonequivalent drug product formulary" means a formulary of drugs, drug products, and dosage formulations for which there are no equivalent drugs, drug products, or dosage formulations and which have been determined to be noninterchangeable or to have actual or potential bioequivalency problems by the United States Food and Drug Administration and are contained in a drug bioequivalence problems list as published in the United States Food and Drug Administration publication entitled "Approved prescription drug products with therapeutic equivalence evaluations" with supplements.
- (8) "Dosage formulation" shall include, but not be limited to, those specific dosage forms which, by the nature of their physical manufacture are deemed to be nonequivalent to other similar formulations such as controlled release tablets, aerosol-nebulizer drug delivery systems and enteric coated oral dosage forms.

Section 3. KRS 218A.010 is amended to read as follows:

As used in this chapter:

- (1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

- (a) A practitioner or by his authorized agent under his immediate supervision and pursuant to his order; or
 - (b) The patient or research subject at the direction and in the presence of the practitioner.
- (2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances listed in KRS 218A.090(5) but does not include estrogens, progestins, and anticosteroids.
- (3) "Cabinet" means the Cabinet for Health Services.
- (4) "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue.
- (5) (a) "Controlled substance analogue", except as provided in subparagraph (b), means a substance:
- 1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and
 - 2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or
 - 3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.
- (b) Such term does not include:
- 1. Any substance for which there is an approved new drug application;
 - 2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or
 - 3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance.
- (6) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.
- (7) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.
- (8) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user.
- (9) "Distribute" means to deliver other than by administering or dispensing a controlled substance.
- (10) "Drug" means:
- (a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;
 - (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;
 - (c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and
 - (d) Substances intended for use as a component of any article specified in this subsection.
- It does not include devices or their components, parts, or accessories.
- (11) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the

manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

- (12) "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer" means the optical or geometric isomer.
- (13) "Manufacture", except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:
 - (a) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or
 - (b) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or
 - (c) By a pharmacist as an incident to his dispensing of a controlled substance in the course of his professional practice.
- (14) "Marijuana" means all parts of the plant *Cannabis* sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances.
- (15) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
 - (a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;
 - (b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;
 - (c) Opium poppy and poppy straw;
 - (d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
 - (g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection.
- (16) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.
- (17) "Opium poppy" means the plant of the species *papaver somniferum* L., except its seeds.
- (18) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.
- (19) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
- (20) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy.

- (21) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. ***"Practitioner" also includes a physician, dentist, podiatrist, or veterinarian who is a resident of and actively practicing in a state other than Kentucky and who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated in which case the terms of the Kentucky license shall prevail.***
- (22) "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropractic, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals.
- (23) "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216.
- (24) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.
- (25) "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter.
- (26) "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution.
- (27) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:
1. Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
 2. Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers;
 3. Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.
- (28) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance.
- (29) "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution.
- (30) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

Section 4. KRS 315.121 is amended to read as follows:

- (1) The board may refuse to issue or renew a license, permit, or certificate to, or may suspend, temporarily suspend, revoke, fine, place on probation, reprimand, reasonably restrict, or take any combination of these actions against any licensee, permit holder, or certificate holder for the following reasons:
- (a) Unprofessional or unethical conduct;
 - (b) Mental or physical incapacity that prevents the licensee, permit holder, or certificate holder from engaging in the practice of pharmacy or the wholesale distribution or manufacturing of drugs with reasonable skill, competence, and safety to the public;
 - (c) Being convicted of, or entering an "Alford" plea or plea of nolo contendere to, irrespective of an order granting probation or suspending imposition of any sentence imposed following the conviction or entry of such plea, one (1) or more of the following:
 1. A felony;

2. An act involving moral turpitude or gross immorality; or
 3. A violation of the pharmacy or drug laws, rules, or administrative regulations of this state, any other state, or the federal government;
- (d) Knowing or having reason to know that a pharmacist, pharmacist intern, or pharmacy technician is incapable of engaging or assisting in the practice of pharmacy with reasonable skill, competence, and safety to the public and failing to report any relevant information to the board;
 - (e) Knowingly making or causing to be made any false, fraudulent, or forged statement or misrepresentation of a material fact in securing issuance or renewal of a license, permit, or certificate;
 - (f) Engaging in fraud in connection with the practice of pharmacy or the wholesale distribution or manufacturing of drugs;
 - (g) Engaging in or aiding and abetting an individual to engage in the practice of pharmacy without a license or falsely using the title of "pharmacist," "pharmacist intern," or other term which might imply that the individual is a pharmacist or pharmacist intern;
 - (h) Being found by the board to be in violation of any provision of this chapter, KRS Chapter 217, KRS Chapter 218A, or the administrative regulations promulgated pursuant to these chapters;
 - (i) Violation of any order issued by the board to comply with any applicable law or administrative regulation; or
 - (j) Knowing or having reason to know that a pharmacist, pharmacist intern, or pharmacy technician has engaged in or aided and abetted the unlawful distribution of legend medications, and failing to report any relevant information to the board.
- (2) Unprofessional or unethical conduct includes but is not limited to the following acts of a pharmacist or pharmacist intern:
- (a) Publication or circulation of false, misleading, or deceptive statements concerning the practice of pharmacy;
 - (b) Divulging or revealing to unauthorized persons patient information or the nature of professional services rendered without the patient's express consent or without order or direction of a court. In addition to members, inspectors, or agents of the board, the following are considered authorized persons:
 1. The patient, patient's agent, or another pharmacist acting on behalf of the patient;
 2. Certified or licensed health-care personnel who are responsible for care of the patient;
 3. Designated agents of the Cabinet for Health Services for the purposes of enforcing the provisions of KRS Chapter 218A;
 4. Any federal, state, or municipal officer whose duty is to enforce the laws of this state or the United States relating to drugs and who is engaged in a specific investigation involving a designated person; or
 5. An agency of government charged with the responsibility of providing medical care for the patient, upon written request by an authorized representative of the agency requesting such information;
 - (c) Selling, transferring, or otherwise disposing of accessories, chemicals, drugs, or devices found in illegal traffic when the pharmacist or pharmacy intern knows or should have known of their intended use in illegal activities;
 - (d) Engaging in conduct likely to deceive, defraud, or harm the public, demonstrating a willful or careless disregard for the health, welfare, or safety of a patient, or engaging in conduct which substantially departs from accepted standards of pharmacy practice ordinarily exercised by a pharmacist or pharmacy intern, with or without established proof of actual injury;
 - (e) Engaging in grossly negligent professional conduct, with or without established proof of actual injury;

- (f) Selling, transferring, dispensing, ingesting, or administering a drug for which a prescription drug order is required, without having first received a prescription drug order for the drug;
 - (g) Willfully or knowingly failing to maintain complete and accurate records of all drugs received, dispensed, or disposed of in compliance with federal and state laws, rules, or administrative regulations;
 - (h) Obtaining any remuneration by fraud, misrepresentation, or deception; or
 - (i) Accessing or attempting to access confidential patient information for persons other than those with whom a pharmacist has a current pharmacist-patient relationship and where such information is necessary to the pharmacist to provide pharmacy care; **or**
 - (j) ***Failing to exercise appropriate professional judgment in determining whether a prescription drug order is lawful.***
- (3) Any licensee, permit holder, or certificate holder entering an "Alford" plea, pleading nolo contendere, or who is found guilty of a violation prescribed in subsection (1)(c) of this section shall within thirty (30) days notify the board of that plea or conviction. Failure to do so shall be grounds for suspension or revocation of the license, certificate, or permit.
 - (4) Any person whose license, permit, or certificate has been revoked in accordance with the provisions of this section, may petition the board for reinstatement. The petition shall be made in writing and in a form prescribed by the board. The board shall investigate all reinstatement petitions, and the board may reinstate a license, permit, or certificate upon showing that the former holder has been rehabilitated and is again able to engage in the practice of pharmacy with reasonable skill, competency, and safety to the public. Reinstatement may be on the terms and conditions that the board, based on competent evidence, reasonably believes necessary to protect the health and welfare of the citizens of the Commonwealth.
 - (5) Upon exercising the power of revocation provided for in subsection (1) of this section, the board may reasonably prohibit any petition for reinstatement for a period up to and including five (5) years.
 - (6) Any licensee, permit holder, or certificate holder who is disciplined under this section for a minor violation may request in writing that the board expunge the minor violation from the licensee's, permit holder's, or certificate holder's permanent record.
 - (a) The request for expungement may be filed no sooner than three (3) years after the date on which the licensee, permit holder, or certificate holder has completed disciplinary sanctions imposed and if the licensee, permit holder, or certificate holder has not been disciplined for any subsequent violation of the same nature within this period of time.
 - (b) No person may have his or her record expunged under this section more than once.

The board shall promulgate administrative regulations under KRS Chapter 13A to establish violations which are minor violations under this subsection. A violation shall be deemed a minor violation if it does not demonstrate a serious inability to practice the profession; adversely affect the public health, safety, or welfare; or result in economic or physical harm to a person, or create a significant threat of such harm.

Approved March 12, 2003

CHAPTER 52

(HB 406)

AN ACT relating to telecommunications employed by local governments.

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

Section 1. KRS 15.530 is amended to read as follows:

For the purposes of KRS 15.540 to 15.590:~~to 15.590;~~

- (1) ***"CJIS" means the Criminal Justice Information System;***
- (2) ***"CJIS-full access course" means a forty (40) hour training program approved by the Kentucky Law Enforcement Council;***

- (3) *"CJIS telecommunicator" means any full-time public employee, sworn or civilian, whose primary responsibility is to dispatch law enforcement units by means of radio communications for an agency that utilizes the Criminal Justice Information System, and is part of or administered by the state or any political subdivision;*
- (4) *"Commissioner" means the commissioner of the Department of Criminal Justice Training;*
- (5) *"Law enforcement telecommunicator" means any full-time public employee, sworn or civilian, whose primary responsibility is to dispatch law enforcement units by means of radio communications for an agency that does not utilize the Criminal Justice Information System and [which] is part of or administered by the state or any political subdivision;*
- (6) *"Law enforcement telecommunicator basic training program" means a forty (40) hour basic training program approved by the Kentucky Law Enforcement Council;*
- (7) *"Non-CJIS telecommunicator academy" means a one hundred twenty (120) hour academy approved by the Kentucky Law Enforcement Council; and*
- (8) *"Telecommunications academy" means a one hundred sixty (160) hour academy approved by the Kentucky Law Enforcement Council.*

Section 2. KRS 15.560 is amended to read as follows:

- (1) No person shall receive an official appointment on a permanent basis as a law enforcement telecommunicator~~to any law enforcement agency in this state,~~ unless ~~the~~^{such} person has previously been awarded a certificate by the ~~commissioner~~^{secretary of justice} attesting to such person's satisfactory completion of ~~non-CJIS telecommunications academy~~^{an approved law enforcement telecommunicator basic training program}. Every person who is employed *after the effective date of this Act*~~, after July 15, 1986,~~ as a law enforcement telecommunicator by any law enforcement agency in this state, *regardless of prior experience as a law enforcement telecommunicator*, shall forfeit his *or her* position as such unless, within twelve (12) months from the date of his *or her* employment, he *or she* satisfactorily completes *the non-CJIS telecommunications academy*~~a basic training program~~ and is awarded a certificate attesting thereto. The ~~commissioner~~^{secretary of justice} shall waive the training requirements listed in this section for all law enforcement ~~telecommunicators~~^{radio dispatchers} who *are serving on the effective date of this Act and possess a certificate of completion of an approved law enforcement telecommunicator*~~have served continuously for one (1) year immediately prior to July 15, 1986, and shall award each such law enforcement telecommunicator a certificate. Notwithstanding the above, any person employed on or after July 15, 1986, regardless of prior experience as a law enforcement telecommunicator shall successfully complete the~~ basic training program.
- (2) All *law enforcement* telecommunicators, whether originally employed before or after *the effective date of this Act*~~July 15, 1986~~, shall successfully complete each calendar year an in-service training course, appropriate to their job assignment and responsibility, of at least eight (8) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council.
- (3) *In the event of extenuating circumstances beyond the control of a law enforcement telecommunicator that prevent completion of training within the time specified, the commissioner or the commissioner's designee may grant the law enforcement telecommunicator an extension of time, not to exceed one hundred eighty (180) days, in which to complete the training.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

- (1) *No person shall receive an official appointment on a permanent basis as a CJIS telecommunicator unless that person has previously been awarded a certificate by the commissioner attesting to that person's satisfactory completion of the telecommunications academy. Every person who is employed, after the effective date of this Act, as a CJIS telecommunicator shall forfeit his or her position as such unless, within six (6) months from the date of employment, that person satisfactorily completes the telecommunications academy and is awarded a certificate attesting thereto. The commissioner shall waive the training requirements listed in this section and award a CJIS telecommunicator certificate for all CJIS telecommunicators who are serving on the effective date of this Act and have successfully completed the CJIS-full access course.*
- (2) *A law enforcement telecommunicator who gains employment as a CJIS telecommunicator shall successfully complete the CJIS-full access course within six (6) months from the date of his or her*

employment. A law enforcement telecommunicator whose employing agency initiates the use of CJIS shall successfully complete the CJIS-full access course within six (6) months from the date that the agency initiates the use of CJIS.

- (3) *All CJIS telecommunicators, whether originally employed before or after the effective date of this Act, shall successfully complete each calendar year an in-service training course, appropriate to their job assignment and responsibility, of at least eight (8) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council.*
- (4) *All CJIS telecommunicators, whether originally employed before or after the effective date of this Act, shall successfully complete, every two (2) years, eight (8) hours of CJIS in-service training at a school certified or recognized by the Kentucky Law Enforcement Council.*
- (5) *Extensions of time in which to complete the training specified in this section may be granted by the commissioner of the Department of State Police or the commissioner's designee.*

Approved March 12, 2003

CHAPTER 53

(HB 363)

AN ACT relating to independent candidates.

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

Section 1. KRS 118.315 is amended to read as follows:

- (1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provisions of subsection (2) of this section. No person *whose registration status*~~[who]~~ is *as* a registered member of a political party shall be eligible to election as an independent candidate, nor shall any person be eligible to election as an independent candidate *whose registration status*~~[who]~~ was *as* a registered member of a political party on *January 1*~~[December 31]~~ immediately preceding the regular election for which the person seeks to be a candidate. This restriction shall not apply to candidates to those offices specified in KRS 118.105(7)~~(5)~~, for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the second to sixth class, or to candidates participating in nonpartisan elections.
- (2) The form of the petition shall be prescribed by the State Board of Elections. It shall be signed by the candidate and by registered voters from the district or jurisdiction from which the candidate seeks nomination. The petition shall include a declaration, sworn to by the candidate, that he or she possesses all the constitutional and statutory requirements of the office for which the candidate has filed. Signatures for a petition of nomination for a candidate seeking any office shall not be solicited prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly, or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer, two (2) petitioners; and for an officer of a division less than a county, except as herein provided, twenty (20) petitioners. It shall not be necessary that the signatures of the petition be appended to one (1) paper. Each petitioner shall include his residence, Social Security number or date of birth, and post-office address. Failure of a voter to include his Social Security number or date of birth and address shall result in his signature not being counted. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his signature is affixed.
- (3) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be accepted as the candidate's name.

- (4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

Approved March 12, 2003

CHAPTER 54

(HB 267)

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:

The Department for Regional Development is created within the Cabinet for Economic Development. The department shall be headed by a commissioner appointed by the Governor pursuant to KRS 12.040. The department shall:

- (1) Administer existing programs, including the Local Government Economic Development Program as set forth in KRS 42.4588;***
- (2) Develop new programs; and***
- (3) Identify opportunities to help diversify local economies by creating an environment more conducive to business activity.***

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. 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.
 - (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) ***Department for Regional Development.***
 - (f) Tobacco Research Board.
 - ~~(g)(4)~~ 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.
 - (k) Office of Human Resource Management.
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 Financial Management.
 - (b) Office of the Controller.
 - (c) Department for Administration.
 - (d) Department of Facilities Management.
 - (e) State Property and Buildings Commission.
 - (f) Kentucky Pollution Abatement Authority.

- (g) Kentucky Savings Bond Authority.
 - (h) Deferred Compensation Systems.
 - (i) Office of Equal Employment Opportunity Contract Compliance.
 - (j) Office of Capital Plaza Operations.
 - (k) County Officials Compensation Board.
 - (l) Kentucky Employees Retirement Systems.
 - (m) Commonwealth Credit Union.
 - (n) State Investment Commission.
 - (o) Kentucky Housing Corporation.
 - (p) Governmental Services Center.
 - (q) Kentucky Local Correctional Facilities Construction Authority.
 - (r) Kentucky Turnpike Authority.
 - (s) Historic Properties Advisory Commission.
 - (t) Kentucky Tobacco Settlement Trust Corporation.
 - (u) 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 Information Technology.
 - (m) Office of Labor-Management Relations and Mediation.
 - (n) Office of General Counsel.
 - (o) Workers' Compensation Funding Commission.
 - (p) 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) Department for Training and Reemployment.
 - (j) Office of General Counsel.
 - (k) Office of Communication Services.
 - (l) Office of Workforce Partnerships.
 - (m) Office of Workforce Analysis and Research.
 - (n) Office of Budget and Administrative Services.
 - (o) Office of Technology Services.
 - (p) Office of Quality and Human Resources.
 - (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.
- 10. Education Professional Standards Board.

Section 3. The General Assembly confirms Resolution 02-1 of the Kentucky Economic Development Partnership, relating to the creation of the Department for Regional Development, to the extent it is not otherwise confirmed or superseded by this Act, this resolution having been made by the Kentucky Economic Development Partnership under the powers and authorities granted to the partnership by KRS 154.10-010, 154.10-030, and 12.028.

Approved March 12, 2003

CHAPTER 55

(HB 225)

AN ACT relating to annuities.

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

Section 1. KRS 304.15-315 is amended to read as follows:

- (1) This section shall be known as the "Standard Nonforfeiture Law for Individual Deferred Annuities."
- (2) This section shall not apply to any reinsurance group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the insurer issuing the contract.
- (3) In the case of contracts issued on or after the operative date of this section as defined in subsection (12) of this section, no contract of annuity, except as stated in subsection (2) of this section, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract.
 - (a) That upon cessation of payment of considerations under a contract, the insurer will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections (5), (6), (7), (8) and (10) of this section.

- (b) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the insurer will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections (5), (6), (8) and (10) of this section. The insurer shall reserve the right to defer the payment of such cash surrender benefit for a period of six (6) months after demand therefor with surrender of the contract.
- (c) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits.
- (d) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the insurer to the contract, any indebtedness to the insurer on the contract or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this subsection, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two (2) full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars (\$20) monthly, the insurer may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

- (4) The minimum values as specified in subsections (5), (6), (7), (8) and (10) of this section of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

- (a) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at a rate of interest of three percent (3%) per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of

- 1. Any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three percent (3%) per annum; and
- 2. The amount of any indebtedness to the insurer on the contract, including interest due and accrued;

and increased by any existing additional amounts credited by the insurer to the contract. The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross consideration credited to the contract during that contract year less an annual contract charge of thirty dollars (\$30) and less a collection charge of one dollar and twenty-five cents (\$1.25) per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five percent (65%) of the net consideration for the first contract year and eighty-seven and one-half percent (87.5%) of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent (65%) of the portion of the total net consideration for any renewal contract year which exceeds by not more than two (2) times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent (65%).

- (b) *Notwithstanding any other provision of this subsection, for any contract issued on or after July 1, 2003, and before July 1, 2005, the interest rate at which net considerations, prior withdrawals, and partial surrenders shall be accumulated for the purpose of determining nonforfeiture amounts shall be no less than one and one-half percent (1.5%) per annum.*

- (c) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two (2) exceptions:

- 1. The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent (65%) of the net consideration for the first contract year plus twenty-two and

one-half percent (22.5%) of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years.

2. The annual contract charge shall be the lesser of,
 - a. Thirty dollars (\$30), or
 - b. Ten percent (10%) of the gross annual consideration.

~~(d)(e)~~ With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety percent (90%) and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars (\$75).

- (5) Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.
- (6) For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one percent (1%) higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the insurer on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the insurer to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.
- (7) For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the insurer to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.
- (8) For the purpose of determining the benefits calculated under subsections (6) and (7) of this section, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.
- (9) Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.
- (10) Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.
- (11) For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for

the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections (5), (6), (7), (8), and (10) of this section, additional benefits payable

- (a) In the event of total and permanent disability,
- (b) As reversionary annuity or deferred reversionary annuity benefits, or
- (c) As other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits,

shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

- (12) After June 17, 1978, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before June 17, 1980. After the filing of such notice, then upon such specified date, this section shall become operative with respect to annuity contracts thereafter issued by such insurer. If an insurer makes no such election, the operative date of this section for such insurer shall be June 17, 1980.

Approved March 12, 2003

CHAPTER 56

(HB 223)

AN ACT relating to the Kentucky Community and Technical College System.

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

Section 1. KRS 164.005 is amended to read as follows:

- (1) There is established the Governor's Postsecondary Education Nominating Committee which shall consist of seven (7) members representing each of the Supreme Court districts who shall be appointed by the Governor with the consent of the House of Representatives and the Senate. If the General Assembly is not in session at the time of appointment, the consent of the General Assembly shall be obtained during the time the General Assembly next convenes.
- (2)
 - (a) In order to be eligible to serve on the Governor's Postsecondary Education Nominating Committee, a member at the time of appointment shall have no conflict of interest pursuant to KRS 45A.340. In addition, no member shall have a relative employed by a public postsecondary institution, the Council on Postsecondary Education, the Kentucky Higher Education Assistance Authority, the Kentucky Higher Education Student Loan Corporation, or the Kentucky Authority for Educational Television during his *or her* tenure on the committee. No more than two (2) persons holding an undergraduate degree from the same institution of higher education shall be members of the committee.
 - (b) The Governor shall make the appointments so as to reflect, inasmuch as possible, equal representation of the two (2) sexes and no less than proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration and to assure that appointments reflect the minority racial composition of the Commonwealth. In filling vacancies to the committee, 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.
 - (c) In selecting the members of the committee, the Governor shall solicit recommendations from each of the following:
 - 1. Advisory Conference of Presidents;
 - 2. Council on Postsecondary Education Student Advisory Committee;
 - 3. Associations representing faculty from universities, technical institutions, and community colleges;

4. Associations representing university, technical institutions, and community college alumni;
 5. Postsecondary education advocacy groups;
 6. The Kentucky Board of Education;
 7. Associations representing business and civic interests; and
 8. Associations representing independent, nonprofit colleges and universities.
- (3) (a) Members of the committee representing Supreme Court districts shall serve six (6) year terms and until a successor is appointed, except the initial appointments shall be as follows:
1. Two (2) members shall serve a two (2) year term;
 2. Two (2) members shall serve a four (4) year term; and
 3. Three (3) members shall serve a six (6) year term.
- (b) The terms of the original appointees shall expire on April 14 in the year designated for the term, and the terms of each member appointed thereafter shall begin on April 15. Appointments shall be submitted to the Senate and to the House of Representatives for confirmation by February 1 in each year that a regular session of the General Assembly convenes. Each appointment shall be consented to by both chambers in order for the person to be confirmed. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.
- (4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the Governor's office.
- (5) (a) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to a university *or Kentucky Community and Technical College System* governing board made pursuant to KRS 164.131, 164.321, and 164.821 and to the Council on Postsecondary Education pursuant to KRS 164.011, ~~except for the four (4) members of the Kentucky Community and Technical College System who shall be nominated by the board of trustees of the University of Kentucky under KRS 164.321~~. The committee shall not make recommendations for alumni, faculty, and staff appointments made pursuant to KRS 164.131 and 164.821 and the student appointments made pursuant to KRS 164.131, 164.321, and 164.821. If more than one (1) equivalent gubernatorial appointment is being made to a governing board or the Council on Postsecondary Education at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The committee shall provide to the Governor, inasmuch as possible, an equal number of male and female nominees. If the Governor needs nominees of a particular sex in order to make an appointment, the committee shall only provide nominees of that sex. The Governor shall select the appointees from among the nominees.
- (b) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to the Kentucky Authority for Educational Television made pursuant to KRS 168.040, the Kentucky Higher Education Assistance Authority pursuant to KRS 164.746, and the Kentucky Higher Education Student Loan Corporation pursuant to KRS 164A.050. If more than one (1) appointment is being made at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.
- (c) Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen vacancy. The Governor shall make the appointment within sixty (60) days following receipt of the nominations. If the Governor does not make the appointment within sixty (60) days, the committee shall select one (1) of the nominees to serve.
- (6) In making its nominations, the committee shall consider the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as necessary.
- (7) The Governor's office staff shall provide support services for the committee.

Section 2. KRS 164.321 is amended to read as follows:

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- (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.~~
 2. ~~4.~~ A 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 ~~the member~~ is appointed and until ~~a~~ his successor is appointed and qualified.

- (6) (a) The faculty member shall be a teaching or research member of the faculty of his *or her* respective university or college of the rank of assistant professor or above. ~~The faculty member~~~~[He]~~ shall be elected by secret ballot by all faculty members of his *or her* 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 *or she* shall not be eligible to continue to serve as a member of the board if he *or she* 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 ~~representative~~~~[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 *or she* 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 *or she* shall represent all nonteaching university employees including, but not limited to, building facilities and clerical personnel. ~~The member~~~~[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 ~~at his~~ successor is elected and qualified. The nonteaching personnel member shall be eligible for reelection, but he *or she* shall not be eligible to continue to serve as a member of the board if he *or she* 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 *or her* 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.]~~

Section 3. KRS 164.350 is amended to read as follows:

- (1) The government of each of the state universities and the Kentucky Community and Technical College System is vested in its respective board of regents. Each board of regents, when its members have been appointed and qualified, shall constitute a body corporate, with the usual corporate powers, and with all immunities, rights, privileges, and franchises usually attaching to the governing bodies of educational institutions. Each board may:
 - (a) Receive grants of money and expend the same for the use and benefit of the university or college;
 - (b) Adopt bylaws, rules, and regulations for the government of its members, officers, agents, and employees, and enforce obedience to such rules;
 - (c) Require such reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time;
 - (d) Determine the number of divisions, departments, bureaus, offices, and agencies needed for the successful conduct of the affairs of the university or college; and
 - (e) Grant diplomas and confer degrees upon the recommendation of the president and faculty.
- (2) Each board of regents shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the strategic agenda. Officers and officials shall be held accountable for the status of the institution's progress.
- (3) In addition to the duties required in subsections (1) and (2) of this section, the board of regents for the Kentucky Community and Technical College System, upon recommendation of the president of the system, shall:
 - (a) Develop and implement guidelines for the preparation of biennial budget requests by the administrators of the *colleges within the system*~~[Technical Institutions' Branch and the University of Kentucky Community College System]~~. The guidelines~~[pertaining to community colleges]~~ shall define the processes for review and approval by the boards of directors for the ~~community~~ colleges;
 - (b) Adopt a biennial budget request for~~[each branch of]~~ the Kentucky Community and Technical College System upon the recommendation of the ~~chancellor for the respective branch and the~~ president of the system~~[-~~
 - ~~1. The board of regents shall submit the biennial budget request for the Technical Institutions' Branch to the Council on Postsecondary Education for its action.~~
 - ~~2. The board of regents shall transmit the biennial budget request for the University of Kentucky Community College System to the board of trustees of the University of Kentucky for consideration. The board of trustees shall review the biennial budget request for the University of Kentucky Community College System and shall transmit the biennial budget request for the~~

~~University of Kentucky Community College System, along with recommendations to the council for its action.~~

- ~~3. The biennial budget request for the University of Kentucky, adopted by the board of trustees, shall identify the amount of funds by source and related purpose in the biennial budget request for administering the University of Kentucky Community College System except for the Lexington Community College.~~
- ~~4. All funds that are appropriated to the University of Kentucky for administering the Community College System, except for the Lexington Community College, shall be transferred and allotted to the board of regents;~~
- (c) Adopt an allocation process for distributing~~[the]~~ funds~~[appropriated to the Technical Institutions' Branch and the University of Kentucky Community College System by the General Assembly]~~ to the *colleges*~~[institutions]~~ within the system;~~[and]~~
- (d) Consider recommendations from the boards of directors of the~~[community]~~ colleges to improve the overall budget planning and allocation processes;
- (e) *Designate each college with a name;*
- (f) *Encourage and accept donations of land and funds to be used in the acquisition, construction, or operations of colleges in the system. The board may commemorate donations from private persons or corporations with suitable memorials; and*
- (g) *Accept federal grants when deemed appropriate to be used in the acquisition, construction, or operations of colleges in the system.*

The board of regents shall assure that the budget planning and implementation processes are consistent with the adopted strategic agenda and biennial budget and with the missions of the institutions within the system.

Section 4. KRS 164.580 is amended to read as follows:

- (1) The Kentucky Community and Technical College System is established. The Kentucky Community and Technical College System shall provide:
 - (a) A general two (2) year academic curriculum with credits transferable to two (2) year and four (4) year colleges and universities;
 - (b) Technical and semiprofessional programs of two (2) years or less;
 - (c) Within a two (2) year college curriculum, courses in general education, including adult education, not necessarily intended for transfer nor technically oriented; and
 - (d) Services to Kentucky's employers and the general public to provide continuing education and customized training for purposes of improving the knowledge and skills of Kentucky workers and citizens in all regions of the state.
- (2) The Kentucky Community and Technical College System shall be responsive to the needs of students and employers in all regions of the Commonwealth with accessible education and training to support the lifelong learning needs of Kentucky citizens in order to:
 - (a) Increase the basic academic and literacy skills of adults through adult basic education and remedial education services;
 - (b) Increase the technical skills and professional expertise of Kentucky workers through associate and technical degrees, diploma, and certificate programs;
 - (c) Increase the access for students to complete the prebaccalaureate associate degree in arts or associate degree in science for ease of transfer to four (4) year institutions;
 - (d) Enhance the relationship of credentials between secondary and postsecondary programs which permit secondary students to enter programs through early admission, advanced placement, or dual enrollment;
 - (e) Facilitate transfers of credit between certificate, diploma, technical, and associate degree programs;

- (f) Develop a pool of educated citizens to support the expansion of existing business and industry and the recruitment of new business and industry;
 - (g) Enhance the flexibility and adaptability of Kentucky workers in an ever- changing and global economy through continuing education and customized training for business and industry;
 - (h) Promote the cultural and economic well-being of the communities throughout Kentucky; and
 - (i) Improve the quality of life for Kentucky's citizens.
- (3) Students attending **a college**~~[the University of Kentucky Community College System]~~ under the administration of the board of regents for the Kentucky Community and Technical College System may pursue **three (3)**~~four (4)~~ kinds of degree programs:
- (a) Associate degree programs approved by the board of trustees as of the effective date of the transfer of the management responsibilities of the University of Kentucky Community College System to the Kentucky Community and Technical College System~~[. These programs shall be periodically reviewed by a process established by the board of trustees of the University of Kentucky. A report shall be forwarded to the chancellor of the University of Kentucky Community College System, the board of regents, and the board of trustees. If the board of trustees finds that a degree program does not meet its prescribed standards of quality and the institution does not correct the deficiencies within a two (2) year period, the board of trustees may recommend to the Council on Postsecondary Education that the program no longer bear the name of the University of Kentucky. The board of trustees of the University of Kentucky shall confer degrees and award diplomas for these programs];~~
 - (b)~~[~~ New associate degree programs to be awarded in the name of the University of Kentucky. These degree programs shall be reviewed and approved by the board of regents prior to submission to the University of Kentucky board of trustees for approval. The programs shall be offered only after the approval of the Council on Postsecondary Education. The board of trustees shall confer degrees and award diplomas for these programs;~~]~~
 - ~~(c)~~ Associate degree programs developed by the Kentucky Community and Technical College System, approved by the board of regents and the Council on Postsecondary Education. The board of regents shall confer degrees and award diplomas for the approved programs; and
 - ~~(c)(d)~~ Joint degree programs developed between the~~[University of]~~ Kentucky Community **and Technical** College System and~~[the Technical Institutions' Branch or]~~ other institutions.
- (4) ~~[Degrees shall be conferred upon community college students and their diplomas awarded by the]~~University of Kentucky **Community College System students who were officially enrolled on or before June 30, 1999, in associate degree programs approved by the** board of trustees ~~off. If the regional accrediting agency for the community colleges in the process of completing its substantive change process review determines that the organizational structure of the Kentucky Community and Technical College System and its board of regents does not meet the requirements for accrediting individual community colleges and for granting of degrees by]~~ the University of Kentucky **and who complete the associate degree programs on or before June 30, 2004, shall have their degrees conferred by the University of Kentucky board of trustees. The degrees for all other students enrolled shall be awarded by the** board of regents ~~for [trustees, then] the Kentucky Community and Technical College System [board of regents and the board of trustees shall initiate corrective actions within thirty (30) days of notification from the accrediting agency or within the time table specified by the accrediting agency to alleviate the problem].~~
- (5) The board of regents for the Kentucky Community and Technical College System shall expedite, whenever possible, action on requests for any new technical or associate degree program of a vocational-technical or occupational nature.
 - (6) The **Kentucky Community and Technical College System**~~[University of Kentucky Community]~~ college faculty ~~senates [senate]~~ shall have the primary responsibility for determining academic policy and curricula development that shall be recommended~~[through the chancellor]~~ to the president of the Kentucky Community and Technical College System~~[and to the board of regents for approval]~~.
 - (7) The Technical Institutions' Branch through its faculty and accrediting procedures may develop~~[technical]~~ degree programs that shall be considered for approval by the board of regents and the Council on Postsecondary Education. A graduate of a program within three (3) years of the program becoming an accredited~~[technical]~~ degree program shall receive all or partial credit toward the degree, based on criteria

established by the institution and approved by the board of regents. The board of regents shall confer degrees and award diplomas for these programs.

Section 5. KRS 164.600 is amended to read as follows:

- (1) As used in this section, *unless the context requires otherwise*:
 - (a) *"Chief executive officer" means a president or the head administrator of a college within the Kentucky Community and Technical College System;*
 - (b) *"College" means a community college, a technical college, or a community and technical college within the system;*
 - (c) *"President" means the chief executive officer of the system;*
 - (d) "Relative" means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law; *and*
 - (e) *"System" means the Kentucky Community and Technical College System.*
- (2) There shall be a board of directors for each community college *or community and technical college* under the Kentucky Community and Technical College System, except as provided in KRS 165.160. *The board of regents may designate that a local board of directors serve more than one college.* Each board of directors shall:
 - (a) Recommend one (1) candidate for ~~the community~~ college *chief executive officer* ~~president~~ from three (3) candidates provided by the president ~~of the Kentucky Community and Technical College System~~. The president shall have the authority to make the final appointment and shall not be bound by the recommendation from the board of directors;
 - (b) Evaluate the ~~community~~ college *chief executive officer* ~~president~~ and advise the *president* ~~chancellor~~ of his or her performance. The president has final authority for the appointment and termination of the ~~community~~ college *chief executive officer* ~~president~~;
 - (c) Approve budget requests for recommendation to the Kentucky Community and Technical College System;
 - (d) Adopt and amend an annual operating budget and submit it to the board of regents ~~of the Kentucky Community and Technical College System~~ for approval as to the compliance with its guidelines;
 - (e) Approve ~~and implement~~ a strategic plan that is developed in coordination with local employers, civic leaders, campus constituents, and other postsecondary institutions in the region and that is consistent with the strategic agenda of the General Assembly.
- (3) The *chief executive officer* ~~president~~ of each ~~community~~ college shall have full authority and discretion regarding the use and management of the budget approved by the board of regents for the Kentucky Community and Technical College System under KRS 164.350.
- (4) Each board of directors shall consist of ten (10) members, seven (7) of whom shall be appointed by the Governor from nominees of the respective ~~community~~ college nominating commission established under KRS 164.602 for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The other three (3) board members shall be one (1) member of the teaching faculty, one (1) member of the staff, and one (1) member of the student body. An appointed member's term shall be six (6) years.
- (5) The faculty member shall be on the teaching or research faculty of the ~~community~~ college. The faculty member shall be elected by secret ballot of all full-time faculty members of the ~~community~~ college. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the boards if they cease to be members of the teaching staff of the ~~community~~ college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.
- (6) The staff member shall be a classified or midmanagement employee who does not hold faculty rank and who does not hold an upper administrative position. The staff member shall be elected by secret ballot of all full-time staff members of the ~~community~~ college. Staff members shall serve for terms of three (3) years and until their successors are elected and qualified. Staff members shall be eligible for reelection, but shall be ineligible

to continue to serve as members of the boards if they cease to be members of the staff of the ~~community~~ college. An election to fill a vacancy for an unexpired term shall be held in the same manner as an election to an original full term.

- (7) The student member shall be *elected by secret ballot from the* ~~president of the~~ student body of the ~~community~~ college *to serve a term of one (1) year.* ~~If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member.~~
- (8) *If a board of directors is designated by the board of regents to serve more than one college as permitted under subsection (2) of this section, the board of regents shall define procedures for the selection of the faculty, staff, and student representatives to the board of directors to ensure that there is opportunity for all colleges to be represented.*
- (9) The members of the board of directors shall receive no compensation for their services but shall be paid for their actual and necessary expenses.
- ~~(10)(9)~~ No citizen member of the board of directors shall have a conflict of interest in accordance with KRS 45A.340 or be a relative of any employee of the ~~community~~ college under its jurisdiction. A person who is a member of the board on July 15, 1998, who is a relative of an employee of the ~~community~~ college may finish out the appointed term of office but the member may not be reappointed.

~~(10) The board of regents of the Kentucky Community and Technical College System may extend this type of local governance authority to each postsecondary technical institution under its control, subject to review and approval by the Council on Postsecondary Education.~~

Section 6. KRS 164.602 is amended to read as follows:

- (1) There shall be a nominating commission for each ~~community~~ college board of directors *required under Section 5 of this Act* to provide names of nominees to the Governor for appointment to the board of directors.
- (2)
 - (a) Each nominating commission shall be composed of five (5) members appointed by the Governor who shall reside in the service area of the ~~community~~ college at the time of their appointment. Commission members shall have no conflict of interest in accordance with KRS 45A.340 or have a relative employed by a public postsecondary institution, the Council on Postsecondary Education, the Kentucky Higher Education Assistance Authority, the Kentucky Higher Education Student Loan Corporation, or the Kentucky Authority for Educational Television.
 - (b) Members of the nominating commission shall serve four (4) year terms, or until a successor shall be appointed, except the initial appointments shall be as follows:
 1. One (1) member shall serve a one (1) year term;
 2. Two (2) members shall serve a two (2) year term;
 3. One (1) member shall serve a three (3) year term; and
 4. One (1) member shall serve a four (4) year term.
- (3) The Governor shall appoint commission members who reflect, inasmuch as possible, equal representation of the two (2) sexes and in the context of the total membership of all of the commissions, shall approximate the proportional representation of the two (2) leading political parties and the minority racial composition of the state.
- (4)
 - (a) The nominating commission shall submit to the Governor the names of three (3) nominees for each position on the board of directors who meet the eligibility criteria for membership under KRS 164.600.
 - (b) In the selection of the nominees, the nominating commission shall consider the needs of the respective ~~community~~ college, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as necessary. The commission shall consider the goals for diversity of membership as set out in subsection (3) of this section.
 - (c) Each appointment to the board of directors shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen vacancy. The Governor may reject all names of nominees and request the submission of three (3) additional names for consideration.

- (5) The members of the commissions shall be reimbursed for actual and necessary expenditures incurred in the performance of their duties.
- (6) The nominating commissions shall be attached to the Kentucky Community and Technical College System and the Governor's office staff shall provide staffing and administrative assistance.

Section 7. KRS 164A.575 is amended to read as follows:

- (1) The governing boards of each institution may elect to purchase interest in real property, contractual services, rentals of all types, supplies, materials, equipment, printing, and services, except that competitive bids may not be required for:
 - (a) Contractual services where no competition exists;
 - (b) Food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies;
 - (c) Instructional materials available from only one (1) source;
 - (d) Where rates are fixed by law or ordinance;
 - (e) Library books;
 - (f) Commercial items that are purchased for resale;
 - (g) Professional, technical, scientific, or artistic services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725;
 - (h) All other commodities, equipment, and services which, in the reasonable discretion of the board, are available from only one (1) source; and
 - (i) Interests in real property.
- (2) Nothing in this section shall deprive the boards from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between General Services Administration and the vendor affected.
- (3) The governing board shall require the institution to take and maintain inventories of plant and equipment.
- (4) The governing board shall establish procedures to identify items of common general usage among all departments to foster volume purchasing. It shall establish and enforce schedules for purchasing supplies, materials, and equipment.
- (5) The governing board shall have power to salvage, to exchange, and to condemn supplies, equipment, and real property.
- (6) Upon the approval of the secretary of the Finance and Administration Cabinet, the governing board may purchase or otherwise acquire all real property determined to be needed for the institution's use. The amount paid shall not exceed the appraised value as determined by a qualified appraiser or the value set by the eminent domain procedure. Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.
- (7) The governing board shall sell or otherwise dispose of all real or personal property of the institution which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the board. The determination of the board shall be set forth in an order, and shall be reached only after review of a written request by the institution desiring to dispose of the property. Such request shall describe the property and state the reasons why the institution believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the appropriate officer of the board. Unless the board deems it in the best interest of the institution to proceed otherwise, all such real or personal property shall be sold either by invitation of sealed bids or by public auction; provided, however, that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the Finance and Administration Cabinet or the Transportation Cabinet for such requirements of that department.

- (8) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employee of any board of the institution, based upon a written application by the grantor or lessor approved by the board, that the employee has not either himself or through any other person influenced or attempted to influence either the board requesting the purchase of the property. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.
- (9) For capital construction projects, the bidding may be on a total design-bid basis, a package system commonly referred to as "turnkey," or construction management, whichever in the judgment of the board offers the lowest real cost to the taxpayer. Bids shall be reviewed by the institution's engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.
- (10) The governing board shall attempt in every practicable way to insure the institution's supplying its real needs at the lowest possible cost. To accomplish this the board may enter into cooperative agreements with other public or private institutions of education or health care.
- (11) The governing board shall have control and supervision over all purchases of energy consuming equipment, supplies, and related equipment purchased or acquired by the institution, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.
- (12) The governing board may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency must be fully explained, in writing, by the vice president responsible for business affairs and such explanation must be approved by the university president. The letter and approval shall be filed with the record of all such purchases. Where practical, standard specifications shall be followed in making emergency purchases. A good faith effort shall be made to effect a competitively established price for emergency purchases.
- (13) The acquisition and disposition of real property for the *colleges under the jurisdiction of the Kentucky Community and Technical College board of regents that are the property of the* University of Kentucky~~Community College System and capital construction projects under KRS 45.750(1)(f) on real property for the use of the University of Kentucky Community College System~~ shall be approved by the Kentucky Community and Technical College System board of regents, which shall transmit the action to the University of Kentucky board of trustees for approval.

Section 8. The following KRS sections are repealed:

- 164.581 President of Kentucky Community and Technical College System -- Chancellors of Community College System and Technical Institutions' Branch.
- 164.5815 President's biennial report.
- 164.595 Powers of board of regents for the Kentucky Community and Technical College System.
- 164.597 Northern Community College to be operated by Northern Kentucky University -- Programs.

Approved March 12, 2003

CHAPTER 57

(HB 185)

AN ACT relating to highway signage.

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

Section 1. KRS 177.0739 is amended to read as follows:

All statutes to the contrary notwithstanding, the Transportation Cabinet shall amend its policies and administrative regulations in effect on *the effective date of this Act* ~~[July 15, 2002]~~, governing highway signage, to include *bed and breakfast establishments*, shopping malls, and shopping areas as businesses that are eligible to obtain a specific service highway sign, and shall not subsequently adopt new policies or promulgate new administrative regulations to the contrary.

Approved March 12, 2003

CHAPTER 58

(HB 139)

AN ACT relating to the sale of alcoholic beverages to minors.

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

Section 1. KRS 244.085 is amended to read as follows:

- (1) As used in KRS 244.083 and this section: "Premises" has the meaning it is given in KRS 241.010 and also means the place of business of a person licensed to sell alcoholic beverages including, in the case of drive-in establishments, the entire lot upon which the business establishment is situated.
- (2) A person under 21 years of age shall not enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.
- (3) A person under 21 years of age shall not possess for his or her own use or purchase or attempt to purchase or have another purchase for him or her any alcoholic beverages. No person shall aid or assist any person under 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages.
- (4) A person under 21 years of age shall not misrepresent his or her age for the purpose of inducing any licensee, or the licensee's agent, servant, or employee, to sell or serve any alcoholic beverages to the underage person.
- (5) A person under 21 years of age shall not use, or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.
- (6) Except as provided in KRS 244.087 and 244.090, a licensee, or his or her agents, servants, or employees shall not permit any person under twenty-one (21) years of age to remain on any premises where alcoholic beverages are sold by the drink or consumed on the premises, unless:
 - (a) The usual and customary business of the establishment is a hotel, motel, restaurant, convention center, convention hotel complex, racetrack, simulcast facility, golf course, private club, park, fair, church, school, athletic complex, athletic arena, theater, distillery or brewery or winery tour, establishment where prebooked concerts with advance ticket sales are held, **convenience store, grocery store, drug store, or similar establishment** ~~or any facility in which there is maintained in inventory on the premises for sale at retail no less than five thousand dollars (\$5,000) of food, groceries, and related products valued at cost~~. For purposes of this paragraph, house bands, disc jockeys, and karaoke are not considered concerts;
 - (b) All alcoholic beverage inventory is kept in a separate, locked department at all times when minors are on the premises; or
 - (c) Written approval has been granted by the department to allow minors on the premises until 10 p.m. where the sale of alcohol is incidental to a specific family or community event including, but not limited to, weddings, reunions, or festivals. The licensee's request shall be in writing and shall specifically describe the event for which approval is requested. The state administrator shall approve or deny the request in writing.
- (7) Except as provided in subsection (6) of this section, a licensee or his or her agent, servant, or employee shall not allow any person under the age of twenty-one (21) to remain on any premises that sells alcoholic beverages by the package unless the underage person is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.

- (8) Except as provided in subsection (6) of this section, a person under the age of twenty-one (21) shall not remain on any premises that sells alcoholic beverages by the package unless he or she is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.

Approved March 12, 2003

CHAPTER 59

(HB 73)

AN ACT relating to the employees of an urban-county adult misdemeanor probation and work release agency.

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

Section 1. KRS 439.550 is amended to read as follows:

- (1) If any District Court places a person on probation following a conviction of crime, either upon verdict or plea, the court may direct that the defendant be under the supervision of the Department of Corrections.
- (2) In counties containing an urban-county form of government, the urban-county council shall provide for supervision of a person placed on probation or work release by the District Court of the county following a conviction of crime, either upon a verdict or plea, under the supervision of an adult misdemeanor probation and work release agency of the urban-county government. The employees of the agency shall be ***classified civil service employees of a correctional services division created under KRS 67A.028*** ~~and appointed by the mayor of the urban-county government and shall serve at his pleasure but~~ shall be subject to the direction ~~and control~~ of the judges of the District Court in the performance of their duties. There shall be the number of employees of said agency, including clerical personnel, as necessary for the operation of the agency, and they shall receive reasonable salaries to be fixed by the urban-county council which salaries shall be paid out of the urban-county treasury.

Approved March 12, 2003

CHAPTER 60

(HB 64)

AN ACT relating to United States Selective Service System.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

- (1) ***Any United States male citizen or immigrant who is at least eighteen (18) years of age but less than twenty-six (26) years of age shall be registered for the United States Selective Service System when applying to the Transportation Cabinet for the issuance, renewal, or duplicate copy of:***
 - (a) *An operator's license;*
 - (b) *A commercial driver's license; or*
 - (c) *A nondriver identification card.*
- (2) ***This registration is in compliance with federal Selective Service System requirements.***
- (3) ***The Transportation Cabinet shall forward, in an electronic format, the necessary personal information required for registration of the applicants identified in this section to the Selective Service System via the American Association of Motor Vehicles Administrators Network. If an applicant declines registration, the Transportation Cabinet shall forward the necessary personal information to the Selective Service System with the notation that automatic registration was declined.***
- (4) ***The applicant's submission of the application shall serve as an indication that the applicant has already registered with the Selective Service System, or that he is authorizing the Transportation Cabinet to forward the necessary information for registration to the Selective Service System.***

- (5) *The Transportation Cabinet shall include the following statement on applications for licenses or identification cards described in this section: "By submitting this application, I am consenting to registration with the federal Selective Service System, if so required. If under eighteen (18) years of age, I understand that I will be registered as required by federal law when I attain eighteen (18) years of age." In the event the applicant declines Selective Service registration, the cabinet may issue an operator's license or nondriver identification card, but shall forward the necessary personal information to the Selective Service System.*

Approved March 12, 2003

CHAPTER 61

(HB 56)

AN ACT relating to mayoral candidates.

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

Section 1. KRS 83A.170 is amended to read as follows:

- (1) In any city which has under the provisions of KRS 83A.045 or 83A.050 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section or as otherwise provided in this chapter relating to nonpartisan elections.
- (2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by KRS Chapters 116 to 121, except as otherwise provided in this chapter. Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.
- (3) Each applicant for nomination shall, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk as provided in KRS 83A.047, file a petition of nomination, which shall be in the form prescribed by the State Board of Elections signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized, he shall be counted as a petitioner for the candidate whose petition is filed first.
- (4) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.
- (5) Immediately upon expiration of the time for filing petitions, the county clerk shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.
- (6) Subsection (5) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no drawing for ballot position nor primary election shall be held for that office.
- (7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.
- (8) If, before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk dies or notifies the clerk in writing, signed and properly notarized, that he will not accept the nomination, the clerk shall not cause his name to be printed on the ballot.
- (9) If, after the ballots are printed, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die,

- (a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate.
- (b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation.
- (10) Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one (1) candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at large. No party designation or emblem of any kind nor any sign indicating any applicant's political belief or party affiliation shall be used.
- (11) Persons qualified to vote at a regular election shall be qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election shall be applicable to challenges made at a nonpartisan primary election.
- (12) Votes shall be counted as provided in general election laws, pursuant to KRS Chapters 116 to 121, and the result shall be published as provided in KRS Chapter 424.
- (13) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated; or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled. ***If two (2) candidates are tied for the second highest number of votes in a mayoral election, the names of those two (2) candidates, plus the name of the candidate receiving the highest number of votes, shall be placed upon the ballot.***
- (14) At the regular election following a nonpartisan primary election, the names of the successful nominees and candidates who have filed a petition of candidacy as provided in this chapter to fill a vacancy shall be placed before the voters.
- (15) The nominee or candidate receiving the greater number of votes cast for each city office shall be elected.
- (16) KRS Chapters 116 to 121 prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

Approved March 12, 2003

CHAPTER 62

(HB 36)

AN ACT relating to abducted children.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

- (1) ***The Department of State Police, in cooperation with the Transportation Cabinet, the Division of Emergency Management, the Kentucky Broadcasters Association, and the Kentucky Press Association shall operate a system to notify the public when a child has been abducted and the Department of State Police determines that public notification might aid in the recovery of the child. The system shall be known as the Kentucky Amber alert system.***
- (2) ***The system shall utilize existing resources, including but not limited to electronic highway signs, the emergency broadcast system, law enforcement communications systems, and local, regional, and statewide media providers.***
- (3) ***No public alert using the system shall be issued unless the Department of State Police, in consultation with the law enforcement agency in the jurisdiction in which the abduction of a minor occurred, have determined:***

- (a) *That the minor has actually been abducted or that all available evidence strongly indicates that the minor has been abducted;*
- (b) *That public notification is the most appropriate method of recovering the child in a safe and efficient manner; and*
- (c) *The geographic area in which the notification shall be made.*
- (4) *If it is determined by the Department of State Police that public notification shall be initiated, the Department of State Police shall notify the public and private agencies and organizations which will actually provide the notification and shall provide those organizations and agencies with the information which the Department of State Police deems necessary.*
- (5) *All law enforcement agencies in the Commonwealth shall cooperate with the Department of State Police in the provision and dissemination of information regarding any abducted minor.*
- (6) *No law enforcement agency, other than the Department of State Police, shall activate the notification system specified in this section without the authority of the Department of State Police.*
- (7) *The system shall be operated by all agencies of the Commonwealth within existing budgetary appropriations.*

Approved March 12, 2003

CHAPTER 63

(HB 15)

AN ACT relating to public safety vehicles.

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

Section 1. KRS 189.930 is amended to read as follows:

- (1) Upon the approach of an emergency vehicle equipped with, and operating, one (1) or more flashing, rotating, or oscillating red or blue lights, visible under normal conditions from a distance of five hundred (500) feet to the front of such vehicle; or the driver is given audible signal by siren, exhaust whistle, or bell, the driver of every other vehicle shall yield the right-of-way, immediately drive to a position parallel to, and as close as possible to, the edge or curb of the highway clear of any intersection, and stop and remain in such position until the emergency vehicle has passed, except when otherwise directed by a police officer or firefighter.
- (2) Upon the approach of any emergency vehicle, operated in conformity with the provisions of subsection (1) of this section, the operator of every vehicle shall immediately stop clear of any intersection and shall keep such position until the emergency vehicle has passed, unless directed otherwise by a police officer or firefighter.
- (3) No operator of any vehicle, unless he is on official business, shall follow any emergency vehicle being operated in conformity with the provisions of subsection (1) of this section closer than five hundred (500) feet, nor shall he drive into, or park the vehicle into, or park the vehicle within, the block where the vehicle has stopped in answer to an emergency call or alarm unless he is directed otherwise by a police officer or firefighter.
- (4) No vehicle, train, or other equipment shall be driven over any unprotected hose of a fire department when the hose is laid down on any street, private driveway, or track for use at any fire or fire alarm unless the fire department official in command consents that the hose be driven over.
- (5) Upon approaching a stationary emergency vehicle **or public safety vehicle**, when the emergency vehicle **or public safety vehicle** is giving a signal by displaying alternately flashing **yellow**, red, red and white, red and blue, or blue lights, a person who drives an approaching vehicle shall, while proceeding with due caution:
 - (a) Yield the right-of-way by moving to a lane not adjacent to that of the authorized emergency vehicle, if:
 - 1. The person is driving on a highway having at least four (4) lanes with not fewer than two (2) lanes proceeding in the same direction as the approaching vehicle; and
 - 2. If it is possible to make the lane change with due regard to safety and traffic conditions; or

- (b) Reduce the speed of the vehicle, maintaining a safe speed to road conditions, if changing lanes would be impossible or unsafe.
- (6) This section does not operate to relieve the person who drives an emergency vehicle from the duty to operate the vehicle with due regard for the safety of all persons using the highway.

Approved March 12, 2003

CHAPTER 64

(HB 287)

AN ACT relating to mortgage loans.

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

Section 1. KRS 294.010 is amended to read as follows:

Unless the context otherwise requires:

- (1) "Affiliate" means any person who directly or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with another person;
- (2) "Department" means the Department of Financial Institutions;
- (3) "Commissioner" means the commissioner of financial institutions;
- (4) "Mortgage loan" means any loan secured by a mortgage on residential real property or any loan secured by collateral which has a mortgage lien interest in residential real property;
- (5) "Residential real property" means any single family residence or multiple dwelling structure containing four (4) or less single dwelling units for four (4) or less family units, living independently of each other, or any single family condominium unit;
- (6) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interest of the beneficiaries is evidenced by a security, an unincorporated organization, a government, a political subdivision of a government, or any other group however organized;
- (7) "Mortgage loan company" means any person who directly or indirectly:
 - (a) Holds himself out as being able to make or purchase loans secured by mortgages on residential real property;
 - (b) Holds himself out as being able to service loans secured by mortgages on residential real property; and
 - (c) Holds himself out as being able to buy or sell notes secured by mortgages on residential real property;
- (8) "Mortgage loan broker" means any person who for compensation or gain, or in the expectation of compensation or gain, directly or indirectly:
 - (a) Holds himself out as being able to serve as an agent for any person in an attempt to obtain a loan which will be secured by a mortgage on residential real property; or
 - (b) Holds himself out as being able to serve as an agent for any person who has money to loan, which loan is or will be secured by a mortgage on residential real property.

"Mortgage loan broker" does not mean a person who performs functions of a loan processor, nor does it mean a person who performs only clerical functions such as delivering a loan application to a mortgage loan broker or mortgage loan company or gathering information related to a mortgage loan application on behalf of the prospective borrower, mortgage loan broker, or mortgage loan company;

- (9) ***"Loan officer" or "originator" means an individual who discusses or negotiates the rates, terms, and conditions of a loan with a borrower or prospective borrower. The term does not mean a person who performs functions of a loan processor, nor does it mean an individual who performs only clerical functions such as delivering a loan application to a mortgage loan broker or mortgage loan company or gathering information related to a mortgage loan application on behalf of the prospective borrower, mortgage loan broker, or mortgage loan company;***

- (10) *"Loan processor" means an individual who works under the instruction of a loan officer or mortgage loan broker and performs only clerical functions such as gathering information, requesting information, word processing, sending correspondence, or assembling files; and*
- (11) *"Classroom" means a physical classroom environment in which teachers and participants are physically present for the teaching of a course. Courses taught through the Internet, mail, or correspondence classes shall not be considered to be courses taught in a classroom.*

Section 2. 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 under the laws of this state or any other state or the United States as a bank, bank holding company, trust company, credit union, savings and loan association, service corporation subsidiary of savings and loan associations, consumer loan or finance company, industrial loan company, insurance company, real estate investment trust as defined in 26 U.S.C. sec. 856, an institution of the farm credit system organized under the Farm Credit Act of 1971 as amended, or ***any wholly owned subsidiary or affiliate, or any mortgage loan broker, loan officer, originator, or loan processor employed by any such person, or by a subsidiary or affiliate*** 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); ***and***
 - ~~(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; and~~
 - ~~(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; ***and any mortgage loan broker, loan officer, or originator who is an employee of a mortgage loan company or mortgage loan broker regulated by the Department of Housing and Urban Development shall be subject to Sections 6 and 7 of this Act:***
- (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, ***who shall notify the Department of Financial Institutions of each loan made, in such written form and manner as required by the department.***
- (3) Any person relying upon an exemption under subsection (2)(a), (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 3. 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 ***and registered in accordance with Section 6 of this Act***, unless that person is exempt under KRS 294.020 and, if required by KRS 294.020(3) 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 KRS 294.020(2)(b) without making the disclosure required by KRS 294.020(5).
 - (c) ***It is unlawful for any loan officer, unless otherwise exempted, to originate mortgage loans in Kentucky if the loan officer is not registered in accordance with Section 6 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 4. KRS 294.032 is amended to read as follows:

- (1) A license as a mortgage loan company or a mortgage loan broker may be obtained by filing a written application with the commissioner.
- (2) The application shall:
 - (a) Be sworn to;

- (b) State the name of the applicant and each of the applicant's affiliates engaged in business as a mortgage loan company or a mortgage loan broker;
 - (c) State the name under which the applicant will conduct business in Kentucky;
 - (d) State the location of the applicant's principal office and branch offices in Kentucky;
 - (e) List the name, residence, and business address of each person having an interest in the business as principal, partner, officer, trustee, and director, specifying the capacity and title of each;
 - (f) Indicate the general plan and character of the business;
 - (g) Contain a corporate surety bond or other instrument as prescribed by KRS 294.060;
 - (h) If applying for a mortgage loan broker license, contain a compiled financial statement of the applicant; or, if applying for a mortgage loan company license, contain a reviewed or audited financial statement of the applicant prepared by a licensed or certified public accountant;
 - (i) Require payment of the appropriate registration fees; and
 - (j) Require such other information as the commissioner determines necessary.
- (3) No mortgage loan company license may be granted unless the applicant has and maintains, so long as the license is in effect, a minimum, documented funding source of five hundred thousand dollars (\$500,000). If a mortgage loan company has a net worth in excess of five hundred thousand dollars (\$500,000), an additional funding source is not required.
- (4) ~~A [If a licensee is a person other than a natural person, the]~~ license issued to **a mortgage loan company or a mortgage loan broker**~~[-it]~~ shall entitle all officers and employees of the person, if a corporation, and all members, partners, trustees, and employees, if an association, partnership, **natural person**, or trust, to engage in the mortgage loan business licensed pursuant to this chapter, **subject to the applicable registration requirements of Sections 6 and 7 of this Act.**
- (5) If a licensee desires to establish a branch office in Kentucky not already approved, the licensee shall file a registration statement with the commissioner that includes the address and telephone number of the branch office, the name of the prospective manager, the anticipated opening date, and any other information prescribed by the commissioner.
- (6) All applicants for a mortgage loan broker license shall have successfully completed an educational training course, approved by the department, of not less than thirty (30) **classroom** hours' duration. Mortgage loan brokers who have held a license for at least one (1) year shall be exempt from this requirement. This section shall not become effective until the department has approved at least one (1) educational training course. This section shall not apply to renewals of existing licenses.
- (7) (a) ***On and after the effective date of this Act, the application for a mortgage loan broker license shall state the address of the physical location where the business is to be located in compliance with Section 15 of this Act and whether such location is a residence. Photographs of the exterior, interior, and exterior sign of each location shall accompany the application. If the physical location is not a residence and is leased, the lease shall be for a term of at least one (1) year and a copy of the lease and the names of all employees conducting business under the lease shall accompany the application. If the physical location is a residence, proof that the location is a residence, in a form as required by the commissioner, shall accompany the application. Proof of residence shall confirm that the mortgage loan broker owns or leases the residence and lives in the residence as the mortgage loan broker's main residence. Proof of physical location shall include proof that local zoning requirements are satisfied.***
- (b) ***The information required by paragraph (a) of this subsection shall be required for renewals of existing licenses which will expire on June 30, 2004, and for all renewals of licenses thereafter.***
- (c) ***At least ten (10) days prior to the effective date of an address change of the mortgage loan broker's physical location, the mortgage loan broker shall notify the commissioner in writing of the address change and shall include the information required by paragraph (a) of this subsection.***

Section 5. KRS 294.034 is amended to read as follows:

- (1) An applicant for a license under this chapter shall provide the commissioner with separate checks payable to the Kentucky State Treasurer for:
 - (a) An investigation fee of three hundred dollars (\$300) for the principal office and one hundred fifty dollars (\$150) for each branch office; and
 - (b) A license fee of four hundred fifty dollars (\$450) for the principal office and two hundred fifty dollars (\$250) for each branch in Kentucky if the applicant applies for a license on or between July 1 and December 31 or of one hundred fifty dollars (\$150) for the principal office and one hundred dollars (\$100) for each branch if the applicant applies for a license on or between January 1 and June 30.
- (2) A license under this chapter shall expire June 30 next after the date of issuance if it is not renewed.
- (3) A license may be renewed by paying the annual fee for renewing a license which is three hundred fifty dollars (\$350) for the main office and two hundred fifty dollars (\$250) for each branch office in Kentucky, and submitting an annual report of activity as prescribed by the commissioner, and any other information required by the commissioner. ***The commissioner shall not approve the renewal of a mortgage loan broker's license if the commissioner has not received the information on physical location as required in subsection (7) of Section 4 of this Act.***
- (4) The information and payment shall be received by the commissioner on or before June 20 prior to the June 30 expiration date. The commissioner may reinstate the license if the licensee pays the filing fee and a reinstatement fee of ***two hundred fifty dollars (\$250)***~~one hundred dollars (\$100)~~.
- (5) The department shall provide a licensee with a duplicate copy of any license upon a satisfactory showing of its loss and payment of a ten dollar (\$10) replacement fee.

SECTION 6. A NEW SECTION OF KRS CHAPTER 294 IS CREATED TO READ AS FOLLOWS:

- (1) ***Beginning July 1, 2004, and annually thereafter, no mortgage loan broker and no loan officer shall originate mortgage loans in Kentucky unless such mortgage loan broker or loan officer is registered with the department and has been issued a certificate of registration by the department. The department shall maintain a registry of all mortgage loan brokers and loan officers originating mortgage loans in Kentucky. The department shall issue a certificate of registration to all registered mortgage loan brokers and loan officers.***
- (2) ***The registration shall:***
 - (a) ***Be on a form prescribed by the commissioner;***
 - (b) ***Be accompanied by a registration fee in the amount of fifty dollars (\$50) which shall be used solely by the department to establish and maintain the registry system required by this section and any excess funds shall be retained by the department and shall not lapse to the general fund;***
 - (c) ***In the case of initial registrations of loan officers, be accompanied by satisfactory evidence that the applicant has successfully completed twelve (12) classroom hours of education courses related directly to the mortgage loan process or brokerage business, as approved by the commissioner. This paragraph shall not apply to renewals of existing certificates of registration; and***
 - (d) ***Beginning July 1, 2005, in the case of renewals of certificate of registrations by registered mortgage loan brokers and registered loan officers, be accompanied by satisfactory evidence that the individual has successfully met the continuing education requirements of Section 7 of this Act and by a renewal fee in the amount of fifty dollars (\$50). The renewal fee shall be used solely by the department to establish and maintain the registry system required by this section and any excess funds shall be retained by the department and shall not lapse to the general fund.***
- (3) ***All mortgage loan brokers and loan officers subject to the registration requirements of this section shall also be subject to KRS 294.090(1), (3), (6), (7), (8), (10), (11), and (12), 294.220(1) and (2), and 294.990.***

SECTION 7. A NEW SECTION OF KRS CHAPTER 294 IS CREATED TO READ AS FOLLOWS:

- (1) ***Beginning July 1, 2004, all registered mortgage loan brokers and registered loan officers shall complete at least twelve (12) hours of continuing professional education, a minimum of six (6) of which must be classroom hours, by June 30, 2005, and annually thereafter.***

- (2) *Up to twelve (12) hours of continuing professional education may be carried forward from one (1) continuing education year to the next continuing education year. The continuing education year shall begin on July 1 and end on June 30 of the following year.*
- (3) *Fifty (50) minutes of classroom contact shall equal one (1) hour of continuing professional education. Each continuing professional education course, other than classroom hours, shall equal the number of hours approved and designated by the Department of Financial Institutions for that course. Course sponsors shall maintain records of attendees for two (2) years after completion of the course.*
- (4) *Every registered mortgage loan broker and every registered loan officer subject to this section shall furnish to the commissioner written certification as to each continuing professional education course satisfactorily completed. The certification shall be signed by the teacher or sponsoring organization of the course showing the number of hours of the course and the number of hours attended. The certification shall be on a form prescribed by the commissioner.*
- (5) *Only courses approved by the department shall qualify to satisfy the continuing professional education requirement of this section.*
- (6) *An individual teaching any approved continuing professional education course shall qualify for the same number of hours of continuing professional education as would be granted to a mortgage loan broker or loan officer taking and satisfactorily completing the course.*
- (7) *For good cause shown, the commissioner may grant an extension during which the continuing education requirement of this section may be completed, but the extension may not exceed one (1) year. What constitutes good cause for the extension of time rests within the discretion of the commissioner.*
- (8) *The certificate of registration of any mortgage loan broker and any loan officer failing to comply with the continuing professional education requirements of this section and who has not been granted an extension of time to comply in accordance with subsection (7) of this section shall terminate and shall be promptly surrendered to the commissioner without demand. The mortgage loan broker or loan officer shall not originate any mortgage loans while not registered. The commissioner may reinstate the certificate of registration if the mortgage loan broker or loan officer submits proof of compliance with the professional education requirements and pays a reinstatement fee in the amount of two hundred fifty dollars (\$250).*

SECTION 8. A NEW SECTION OF KRS CHAPTER 294 IS CREATED TO READ AS FOLLOWS:

- (1) *The commissioner may, after notice and an opportunity to be heard, deny, suspend, or revoke the registration or license of a mortgage loan company, mortgage loan broker, or a loan officer, if the commissioner finds that the mortgage loan company, mortgage loan broker, or loan officer:*
 - (a) *Does not meet or has failed to comply with the provisions of Section 6 or 7 of this Act;*
 - (b) *Has been found guilty of fraud in connection with any transaction governed by this chapter, or is the subject of an administrative cease and desist order or similar order, or a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state act applicable to the registrant. The commissioner may not institute a proceeding under this subsection more than one (1) year from the date of the order or injunction relied on, and he may not enter an order under this subsection on the basis of an injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute grounds for an order under this section;*
 - (c) *Has made any misrepresentations or false statements to, or concealed any essential or material fact from, any person in the course of acting as a mortgage loan broker or loan officer, or has engaged in a course of business which has worked or tended to work a fraud upon any person or would so operate;*
 - (d) *Has been convicted of or pled guilty to any felony crime;*
 - (e) *Has failed to comply with the requirements of this chapter and the administrative regulations of the commissioner promulgated thereunder;*
 - (f) *Has knowingly or recklessly hired a person who has had a license or registration denied, revoked, or suspended under this section; or*

- (g) *Has knowingly made or caused to be made to the commissioner any false representation of material fact or has suppressed or withheld from the commissioner any information which the mortgage loan broker or loan officer possesses, and which if submitted by the mortgage loan broker or the loan officer would have rendered the mortgage loan broker or loan officer ineligible to be registered or licensed under this chapter.*
- (2) *Persons whose registration or license has been denied, suspended, or revoked under this section are prohibited from participating in any business activity of a registrant or licensee under this chapter and from engaging in any business activity on the premises where a licensee or registrant under this chapter is conducting its business.*
- (3) *Whenever the commissioner revokes or suspends a license or registration issued pursuant to this chapter, the commissioner shall execute a written order to that effect. The commissioner shall serve the written order upon the licensee or registrant, which order shall be sent by registered mail, return receipt requested, postage prepaid, to the principal business address of such licensee or registrant, as set forth in the records of the commissioner, and shall be deemed to have been received three (3) business days following mailing thereof.*
- (4) *Any person who continues to participate in any business activity covered by this chapter after such person's registration or license has been revoked, suspended, or denied shall be subject to the penalties of KRS 294.990 and shall be considered to be in violation of KRS 367.170.*
- (5) *The provisions of this section shall be in addition to any other penalties or remedies available, including the penalties of KRS 294.990.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 294 IS CREATED TO READ AS FOLLOWS:

A mortgage loan broker may act as agent for the person or persons, if an individual or individuals, attempting to obtain a mortgage loan. The mortgage loan broker shall clearly and conspicuously disclose to the person or persons attempting to obtain a mortgage loan whether the mortgage loan broker is acting as an agent for that person or persons, in a separate writing, and provide such disclosure to the person or persons attempting to obtain the mortgage loan before any personal financial information may be obtained by the mortgage loan broker. If a mortgage loan broker is obtaining personal information from the person or persons obtaining the mortgage loan over the telephone, the mortgage loan broker shall give the disclosure verbally at that time and mail the written disclosure within two (2) business days.

Section 10. KRS 287.010 is amended to read as follows:

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

- (1) "Bank or state bank" means any bank which is now or may hereafter be organized under the laws of this state or a combined bank and trust company;
- (2) "National bank" or "national bank association" means a bank created by Congress and organized pursuant to the provisions of federal law, including savings and loan associations;
- (3) "Out-of-state bank" means a bank chartered under the laws of any state other than Kentucky;
- (4) "Home state" means:
 - (a) With respect to a state bank or out-of-state state bank, the state by which the bank is chartered; and
 - (b) With respect to a national bank, the state in which the main office of the bank is located;
- (5) "Home state regulator" means, with respect to an out-of-state state bank, the bank supervisory agency of the state in which such bank is chartered;
- (6) "Host state" means a state, other than the home state, in which the bank maintains, or seeks to establish and maintain, a branch;
- (7) "Commissioner" means the commissioner of financial institutions;
- (8) "Department" means the Department of Financial Institutions;
- (9) "Population" means the population as indicated by the latest regular United States census;
- (10) "Trust company" includes every corporation authorized by this chapter to do a trust business;

- (11) "Undivided profits" means the composite of the bank's net retained earnings from current and prior years' operations;
- (12) "Capital stock" shall mean, at any particular time, the sum of:
 - (a) The par value of all shares of the corporation having a par value that have been issued;
 - (b) The amount of the consideration received by the corporation for all shares of the corporation that have been issued without par value except such part of the consideration as has been allocated to surplus in a manner permitted by law; and
 - (c) Such amounts not included in paragraphs (a) and (b) of this subsection as have been transferred to stated capital of the corporation, whether through the issuance of stock dividends, resolution of the bank's board of directors under applicable corporate law or otherwise by law;~~and~~
- (13) "Surplus" means the amount of consideration received by the corporation for all shares issued without par value that has not been allocated to capital stock or the amount of consideration received by the corporation in excess of par value for all shares with a par value or both;
- (14) ***"Municipality" means a county, city, or urban-county government; and***
- (15) ***"Political subdivision" means a municipality, school district, or other municipal authority.***

SECTION 11. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

- (1) ***All political subdivisions of the Commonwealth shall be prohibited from enacting and from enforcing ordinances, resolutions, and regulations pertaining to the financial or lending activities of persons or entities which:***
 - (a) ***Are subject to the jurisdiction of the department or the provisions of this chapter;***
 - (b) ***Are subject to the jurisdiction or regulatory supervision of the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, the Farm Credit Administration, the Federal Deposit Insurance Corporation, or the United States Department of Housing and Urban Development; or***
 - (c) ***Originate, purchase, sell, assign, securitize, assist, facilitate, or service property interests or obligations created by financial transactions or loans made, executed, or originated by persons or entities referred to in paragraph (a) or (b) of this subsection.***
- (2) ***The requirements of this section shall apply to all ordinances, resolutions, or regulations pertaining to lending activities, including any ordinances, resolutions, or regulations which limit or disqualify persons or entities from doing business with a political subdivision based upon financial or lending activities or the imposition of additional reporting requirements or other obligations on such persons or entities seeking to do business with a political subdivision.***
- (3) ***Any provision of this chapter preempted by federal law with respect to a national bank or federal savings association shall not apply to the same extent to an operating subsidiary of a national bank or federal savings association.***
- (4) ***The provisions of this chapter shall be interpreted and applied to the fullest extent practicable in a manner consistent with applicable federal laws and regulations and with applicable policies and orders of federal regulatory agencies and shall not be deemed to constitute an attempt to override federal law.***
- (5) ***Nothing in this section shall be interpreted as preventing the enforcement of ordinances, regulations, or resolutions of political subdivisions of the Commonwealth pertaining to civil rights.***

SECTION 12. A NEW SECTION OF KRS CHAPTER 360 IS CREATED TO READ AS FOLLOWS:

- (1) ***The following definitions apply for the purposes of this section:***
 - (a) ***"High-cost home loan" means a loan other than an open-end credit plan or a reverse mortgage transaction in which:***
 - 1. ***The principal amount of the loan is greater than fifteen thousand dollars (\$15,000) and does not exceed two hundred thousand dollars (\$200,000);***

2. *The borrower is a natural person;*
 3. *The debt is incurred by the borrower primarily for personal, family, or household purposes;*
 4. *The loan is secured by a mortgage on residential real property or secured by collateral which has a mortgage lien interest in residential real property, which is or will be occupied by the borrower as the borrower's principal dwelling; and*
 5. *Without regard to whether the loan transaction is or may be a "residential mortgage transaction" as defined in 12 CFR 226.2(a)(24), as amended from time to time, the loan at the time the loan is consummated is such that the loan is considered a "mortgage" under section 152 of the Home Ownership and Equity Protection Act of 1994, Pub. Law 103-325, 15 U.S.C. § 1602(aa), as the same may be amended from time to time, and regulations adopted pursuant thereto by the Federal Reserve Board, including 12 CFR 226.32, as the same may be amended from time to time.*
- (b) *"Lender" means any person who funds or negotiates the terms of a high-cost home loan or acts as a mortgage broker or lender, finance company, or retail installment seller with respect to a high-cost home loan. However, any person who purchases or is otherwise assigned a high-cost home loan shall be subject to an action for violation of this section only if the violation for which the action or proceeding is brought is apparent on the face of the disclosure or the underlying promissory note.*
- (2) *A high-cost home loan shall be subject to the following limitations:*
- (a) *A high-cost home loan may not contain a provision which permits the lender to charge or collect prepayment fees or penalties more than thirty-six (36) months after the loan closing or which exceed three percent (3%) of the amount prepaid during the first twelve (12) months, two percent (2%) of the amount prepaid during the second twelve (12) months, or one percent (1%) of the amount prepaid during the third twelve (12) months.*
 - (b) *A high-cost home loan may not contain a provision which permits the lender, in its sole discretion, to accelerate the indebtedness. This provision does not apply when repayment of the loan has been accelerated by default, pursuant to a due-on-sale provision, or pursuant to some other provision of the loan documents unrelated to the payment schedule.*
 - (c) *A high-cost home loan may not contain a scheduled payment that is more than twice as large as the average of earlier scheduled payments. This provision does not apply when the payment schedule is adjusted to the seasonal or irregular income of the borrower.*
 - (d) *A high-cost home loan may not contain a payment schedule with regular periodic payments that cause the principal balance to increase.*
 - (e) *A high-cost home loan may not contain a provision which increases the interest rate after default. This provision does not apply to interest rate changes in a variable rate loan otherwise consistent with the provisions of the loan documents, provided the change in the interest rate is not triggered by the event of default or the acceleration of the indebtedness.*
 - (f) *A high-cost home loan may not include terms under which more than two (2) periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the borrower.*
 - (g) *A lender may not charge a borrower any fees to modify, renew, extend, or amend a high-cost home loan or to defer any payment due under the terms of a high-cost home loan, unless the fees are less than one-half (1/2) of any fees that would be charged for a refinance or unless the borrower is in default and it is in the borrower's best interest.*
 - (h) *A lender may not make a high-cost home loan unless the borrower has been provided the following notice or a substantially similar notice, in writing, not later than the time that notice provided by 12 CFR 226.31(c), as amended from time to time, is required:*

NOTICE TO BORROWER

IF YOU OBTAIN THIS LOAN, THE LENDER WILL HAVE A MORTGAGE ON YOUR HOME. YOU COULD LOSE YOUR HOME AND ANY MONEY YOU PUT INTO IT IF YOU DO NOT MEET YOUR OBLIGATIONS UNDER THE LOAN.

MORTGAGE LOAN RATES AND CLOSING COSTS AND FEES VARY BASED ON MANY FACTORS, INCLUDING YOUR PARTICULAR CREDIT AND FINANCIAL CIRCUMSTANCES, YOUR EMPLOYMENT HISTORY, THE LOAN-TO-VALUE REQUESTED AND THE TYPE OF PROPERTY THAT WILL SECURE YOUR LOAN. THE LOAN RATE AND FEES COULD ALSO VARY BASED ON WHICH LENDER OR BROKER YOU SELECT. YOU SHOULD SHOP AROUND AND COMPARE LOAN RATES AND FEES.

YOU SHOULD ALSO CONSIDER CONSULTING A QUALIFIED INDEPENDENT CREDIT COUNSELOR OR OTHER EXPERIENCED FINANCIAL ADVISOR REGARDING THE RATE, FEES AND PROVISIONS OF THIS MORTGAGE LOAN BEFORE YOU PROCEED. YOU SHOULD CONTACT THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR A LIST OF CREDIT COUNSELORS AVAILABLE IN YOUR AREA.

YOU ARE NOT REQUIRED TO COMPLETE THIS LOAN AGREEMENT MERELY BECAUSE YOU HAVE RECEIVED THESE DISCLOSURES OR HAVE SIGNED A LOAN APPLICATION.

REMEMBER, PROPERTY TAXES AND HOMEOWNER'S INSURANCE ARE YOUR RESPONSIBILITY. NOT ALL LENDERS PROVIDE ESCROW SERVICES FOR THESE PAYMENTS. YOU SHOULD ASK YOUR LENDER ABOUT THESE SERVICES.

ALSO, YOUR PAYMENTS ON EXISTING DEBTS CONTRIBUTE TO YOUR CREDIT RATINGS. YOU SHOULD NOT ACCEPT ANY ADVICE TO IGNORE YOUR REGULAR PAYMENTS TO YOUR EXISTING CREDITORS.

- (i) *A lender may not make a high-cost home loan unless the lender reasonably believes at the time the loan is consummated that one (1) or more of the borrowers, when considered individually or collectively, will be able to make the scheduled payments to repay the loan based upon a consideration of their current and expected income, current obligations, current employment status, and other financial resources, other than the borrower's equity in the dwelling which secures repayment of the loan. A borrower shall be presumed to be able to make the scheduled payments to repay the loan if, at the time the loan is consummated, the borrower's total monthly debts, including amounts owed under the loan, do not exceed fifty percent (50%) of the borrower's monthly gross income as verified by the credit application, the borrower's financial statement, a credit report, financial information provided to the lender by or on behalf of the borrower, or any other reasonable means. No presumption of inability to make the scheduled payments to repay the obligation shall arise solely from the fact that, at the time the loan is consummated, the borrower's total monthly debts, including amounts owed under the loan, exceed fifty percent (50%) of the borrower's monthly gross income.*
- (j) *If the proceeds of the high-cost home loan are used to refinance an existing high-cost home loan held by the same lender as noteholder, the lender may not directly or indirectly finance:*
 - 1. *Any prepayment fees or penalties payable by the borrower; or*
 - 2. *Points and fees, excluding those provided for in 12 CFR 226.4(c)(7), which in the aggregate are in excess of four percent (4%) of the total amount financed.*
- (k) *A lender or mortgage loan broker may not, within one (1) year of the consummation of a high-cost home loan, charge a borrower points and fees in connection with a high-cost home loan if the proceeds of the high-cost home loan are used to refinance an existing high-cost home loan on which points were charged. A lender may not, at any time, charge a borrower points and fees in addition to those allowed by 12 CFR 226.4(c)(7) if the proceeds of the high-cost home loan are used to refinance an existing high-cost home loan, on which points were charged, held by the same lender as noteholder. However, points and fees in accordance with this section may be charged on any proceeds of a high-cost home loan which are in excess of the amount refinanced on the existing high-cost home loan.*
- (l) *A lender may not pay a contractor under a home-improvement contract from the proceeds of a high-cost home loan other than by an instrument payable to the borrower or jointly to the borrower and the contractor, or at the election of the borrower, through a third-party escrow agent in accordance with terms established in a written agreement signed by the borrower, the lender, and the contractor prior to the disbursement.*

- (m) *A lender shall not refinance, replace, or consolidate a zero interest rate or low interest rate loan made by a governmental or nonprofit lender with a high-cost home loan. For purposes of this paragraph, a low interest rate loan is defined as a loan that carries a current interest rate that is two (2) percentage points or more below the current yield on United States Treasury securities with a comparable maturity.*
- (n) *A lender shall not finance single premium credit life, credit accident, credit health, credit disability, or credit loss of income insurance in connection with a high-cost home loan.*
- (o) *A lender shall not make a high-cost home loan unless the lender has made available to the borrower a videotape, or other similar audio-video media format such as DVD or CD, approved by the Department of Financial Institutions, which explains the borrower's rights and responsibilities with regard to this section or high-cost home loans. A lender shall have available for viewing at least one (1) copy of the video in the principal office and each branch office of the lender.*
- (p) *A lender shall not make a high-cost home loan subject to a mandatory arbitration clause that is oppressive, unfair, unconscionable, or substantially in derogation of the rights of consumers. Arbitration clauses that comply with the standards set forth in the Statement of Principles of the National Consumer Dispute Advisory Committee of the American Arbitration Association in effect on the effective date of this Act shall be presumed not to violate this subsection.*
- (q) *A lender shall not charge a late payment fee on a high-cost home loan except in accordance with the following:*
 - 1. *The late payment fee may not be in excess of five percent (5%) of the amount of the payment past due or ten dollars (\$10), whichever is greater;*
 - 2. *The late payment fee may only be assessed for a payment past due fifteen (15) days or more; and*
 - 3. *The late payment fee may only be charged once with respect to a single late payment.*
- (r) *A lender may not charge a borrower a fee in excess of ten dollars (\$10) or actual costs, whichever is greater, per request for a written payoff calculation on a high-cost home loan for the first two (2) requests by a borrower in a calendar year.*
- (s) *A lender shall not initiate a foreclosure or other judicial process to terminate a borrower's interest in residential real property subject to a high-cost home loan without first providing the borrower, at least thirty (30) days prior to the initiation of any process, written notice of default and of the borrower's right to cure. The notice shall include a statement of the amount needed to be paid by the borrower in order to cure the default and the date by which the payment is due to cure the default. If the amount needed to be paid will change during the thirty (30) day notice period, the notice shall provide information sufficient to enable a calculation of the daily change.*
- (t) *A lender shall not recommend or encourage default on an existing loan or other debt in connection with the closing of a high-cost home loan that refinances all or a portion of the existing loan or debt.*
- (3) *Except as provided in paragraph (e) of subsection (2) of this section, the making of a high-cost home loan which violates any provisions of subsection (2) of this section is usurious, subject to the penalties of this chapter, and unlawful as an unfair and deceptive act or practice in or affecting commerce in violation of the provisions of KRS 367.170. The provisions of this section shall apply to any person who in bad faith attempts to avoid the application of this section by:*
 - (a) *The structuring of a loan transaction as an open-end credit plan for the purpose and with the intent of evading the provisions of this section when the loan would have been a high-cost home loan if the loan had been structured as a closed-end loan; or*
 - (b) *Dividing any loan transaction into separate parts for the purpose and with the intent of evading the provisions of this section; or*
 - (c) *Any other such subterfuge.*

The Attorney General, the commissioner of the Department of Financial Institutions, or any party to a high-cost home loan may enforce the provisions of this section. Any person seeking damages or penalties under the provisions of this section may recover damages under either this chapter or KRS Chapter 367, but not both.

- (4) *A lender of a high-cost home loan who, when acting in good faith, fails to comply with subsection (2) of this section, will not be deemed to have violated this section if the lender establishes that either:*
- (a) *Within thirty (30) days of the loan closing the borrower is notified of the compliance failure, appropriate restitution is made, and whatever adjustments are necessary are made, at the choice of the borrower, to the loan to either:*
 - 1. *Make the high-cost home loan satisfy the requirements of subsection (2) of this section; or*
 - 2. *Change the terms of the loan in a manner beneficial to the borrower so that the loan will no longer be considered a high-cost home loan subject to the provisions of this section; or*
 - (b) *The compliance failure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid such errors, and within sixty (60) days after the discovery of the compliance failure, the borrower is notified of the compliance failure, appropriate restitution is made, and whatever adjustments are necessary are made to the loan to either, at the choice of the borrower, make the high-cost home loan satisfy the requirements of subsection (2) of this section or change the terms of the loan in a manner beneficial to the borrower so that the loan will no longer be considered a high-cost home loan subject to the provisions of this section. Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors.*
 - (c) *For purposes of this subsection, "appropriate restitution" means the reimbursement by the lender of any points, fees, interest, or other charges made by the lender and received from the borrower necessary to put the borrower in the same position as he or she would have been had the loan, as adjusted in accordance with paragraphs (a) and (b) of this subsection, been originally made.*
- (5) *For purposes of this section, any extension of credit shall be deemed to have been made in the Commonwealth of Kentucky, and therefore subject to the provisions of this section, if the lender offers or agrees in Kentucky to lend to a borrower, who is a resident of Kentucky, on real property located within the Commonwealth of Kentucky, or if such borrower accepts or makes the offer in Kentucky to borrow, regardless of the situs of the contract as specified therein. Any oral or written solicitation or communication to lend originating outside of Kentucky, but forwarded to and received in Kentucky by a borrower who is a resident of Kentucky, shall be deemed to be an offer or agreement to lend in Kentucky and, therefore, subject to this section. Any oral or written solicitation or communication to borrow originating within Kentucky, from a borrower who is a resident of Kentucky, but forwarded to and received by a lender outside of Kentucky, shall be deemed to be an acceptance or offer to borrow in Kentucky. Any oral or written offer, acceptance, solicitation, or communication to lend or borrow, made in Kentucky to, or received in Kentucky from, a borrower who is not a resident of Kentucky, shall be subject to the provisions of this section, applicable federal law, law of the situs of the contract, or law of the residence of the borrower, as the parties may elect. The provisions of this section shall be severable and if any phrase, clause, sentence, or provision is declared to be invalid, the validity of the remainder of this section shall not be affected thereby.*

Section 13. KRS 367.410 is amended to read as follows:

As used in KRS 367.410 to 367.450, unless the context otherwise requires:

"Home solicitation sale" means a sale of goods or services, **including consumer loans**, in which the seller or a person acting for him engages in a personal solicitation of the sale at a residence of the buyer and the buyer's agreement or offer to purchase is there given to the seller or a person acting for him. It does not include a sale made pursuant to prior negotiations between the parties, **by telephone initiated by the buyer or** at a business establishment at a fixed location where goods or services, **including loans**, are offered or exhibited for sale.

Section 14. KRS 367.420 is amended to read as follows:

- (1) *Except for home solicitation sales on loans in which a security interest is taken in the principal dwelling of the buyer as provided in subsection (6) of this section, and except as provided in subsection (5) for other goods and services, including all other consumer loans*, in addition to any right otherwise to revoke an offer, the buyer has the right to cancel a home solicitation sale until midnight of the third business day after the day on which the buyer signs an agreement or offer to purchase which complies with this part.
- (2) Cancellation occurs when the buyer gives written notice of cancellation to the seller at the address stated in the agreement or offer to purchase.

- (3) Notice of cancellation, if given by mail, is given when it is deposited in a mailbox properly addressed and postage prepaid.
- (4) Notice of cancellation given by the buyer need not take a particular form and is sufficient if it indicates by any form of written expression the intention of the buyer not to be bound by the home solicitation sale.
- (5) The buyer may not cancel a home solicitation sale if the buyer requests the seller to provide goods or services without delay because of an emergency, and
 - (a) The seller in good faith makes a substantial beginning of performance of the contract before the buyer gives notice of cancellation, and
 - (b) In the case of goods, the goods cannot be returned to the seller in substantially as good condition as when received by the buyer.
- (6) *For home solicitation sales on loans in which a security interest is taken in the principal dwelling of the buyer, the buyer shall have the right to rescind or cancel the transaction until midnight of the third business day following the later of the consummation of the loan transaction or the delivery of the material disclosures required under the Truth in Lending Act, 15 U.S.C. 1601 et seq.*

SECTION 15. A NEW SECTION OF KRS CHAPTER 294 IS CREATED TO READ AS FOLLOWS:

- (1) *For purposes of this section, "physical location" means an actual office where the business of mortgage lending or the business of taking or soliciting mortgage loan applications is conducted. The office shall have a street address. A post office box or similar designation shall not meet the requirements of this section. The office shall be accessible to the general public as a place of business and shall hold itself open on a regular basis during posted hours, unless the office is in the residence of the mortgage loan broker and proof of residence has been submitted as required by subsection (7) of Section 4 of this Act.*
- (2)
 - (a) *Each mortgage loan broker licensed under this chapter shall maintain a physical location in this state.*
 - (b) *Any mortgage loan broker licensed under this chapter who, on the effective date of this Act, does not maintain a physical location in this state shall have ninety (90) days after the effective date of this Act in which to establish one. After the ninety (90) day period, a mortgage loan broker licensed under this chapter on the effective date of this Act shall not transact business in Kentucky if the licensed mortgage loan broker does not maintain a physical location in this state.*
- (3) *The license certificate of a mortgage loan broker shall be at all times prominently displayed at the mortgage loan broker's physical location.*

Approved March 12, 2003

CHAPTER 65

(HB 372)

AN ACT relating to the Kentucky State Police, making an appropriation therefor, and declaring an emergency.

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

Section 1. The Department of State Police is directed not to issue any new recently purchased .45 caliber semiautomatic pistols to any employee of the State Police.

Section 2. The Department of State Police shall pay to the vendor of the recently purchased .45 caliber pistols the amount specified in the contract for all remaining 10mm semiautomatic pistols previously issued as duty weapons.

Section 3. (1) The provisions of any other statute to the contrary notwithstanding, the Department of State Police may sell existing surplus 10mm semiautomatic pistols to sworn officers of the Department of State Police at the price specified in the contract for .45 caliber semiautomatic pistols.

(2) The Department of State Police shall notify all sworn officers of the availability of surplus semiautomatic pistols, the payment arrangements, and a date by which all sales shall be completed.

(3) All money from the sale of surplus 10mm semiautomatic pistols shall be paid to the Department of State Police and utilized for the purposes specified in this Act.

Section 4. (1) Except as provided in Section 6 of this Act the provisions of any other statute to the contrary notwithstanding, the Department of State Police and the Finance and Administration Cabinet shall auction all remaining surplus 10mm semiautomatic duty pistols. One (1) or more auctions may be conducted at the discretion of the Department of State Police.

(2) Bidding at the auction shall be restricted to federally licensed firearms dealers having a license appropriate to the firearms auctioned.

(3) The Finance and Administration Cabinet may set a reserve price for acceptable bids for these firearms.

(4) All money received from the auction of surplus 10mm semiautomatic pistols shall be paid to the Department of State Police and utilized for the purposes specified in this Act.

Section 5. (1) Except as provided in Section 6 of this Act, the provisions of any other statute to the contrary notwithstanding, the Department of State Police shall auction all .45 caliber recently purchased semiautomatic pistols.

(2) Bidding at the auction shall be restricted to federally licensed firearms dealers having a license appropriate to the firearms auctioned.

(3) The Finance and Administration Cabinet may set a reserve price for acceptable bids for these firearms.

(4) All money received from the auction of surplus .45 caliber semiautomatic pistols shall be paid to the Department of State Police and utilized for the purposes specified in this Act.

Section 6. The Department of State Police may retain in their inventory as many 10mm semiautomatic former duty pistols and as many .45 caliber semiautomatic duty pistols as may be determined by the department to be necessary for historical, training, and forensic laboratory reference purposes.

Section 7. The Department of State Police and the Finance and Administration Cabinet are directed to replace all current and newly purchased primary duty firearms with firearms of the make and caliber indicated by the preference of the officers during State Police testing of firearms from more than one manufacturer.

Section 8. The funding authorized by 2002 Kentucky Acts Chapter 368 (House Bill 97) shall continue until June 30, 2004, and the total funding from the fund specified in KRS 16.220 shall be increased to \$400,000 provided that it is used solely for the purposes set forth in this Act.

Section 9. Any statute to the contrary notwithstanding, and any other act passed by the 2003 regular session of the General Assembly to the contrary notwithstanding, until the earlier of the completion of the acquisition of new semiautomatic pistols, holsters, and related equipment by the Department of State Police or June 30, 2004:

(1) No moneys received from the fund created by KRS 16.220 shall be expended except for the purposes stated in this Act, unless the moneys are expended solely for the purposes specified in KRS 16.220.

(2) No moneys received from the fund created by the auction or sale of 10mm and .45 caliber semiautomatic pistols shall be used for any purpose other than the acquisition of new firearms, holsters, and related equipment by the Department of State Police or to replace funds spent by the Department of State Police from other sources for the acquisition of new firearms, holsters, and related equipment as provided for in this Act. No elected official, public servant, or other person shall authorize an expenditure of these funds for any other purpose.

(3) No elected official, public servant, or other person shall authorize the expenditure of any funds from the fund created by KRS 16.220 or generated from the sale or auction of firearms pursuant to this Act for any purpose other than as specified in this section.

(4) Funds in the account created pursuant to KRS 16.220 shall not be subject to any budget reduction program until June 30, 2004. This restriction shall apply to funds in the fund created pursuant to KRS 16.220 as of the effective date of this Act and to any moneys added to the fund until June 30, 2004, whether as proceeds from the sale of firearms or proceeds received from any other source. The provisions of this Act shall prevail over any other act containing a provision to the contrary enacted by the 2003 Regular Session of the General Assembly.

(5) Funds generated from the sale and auction of surplus firearms owned by the Department of State Police shall not be subject to any budget reduction program until June 30, 2004. The provisions of this Act shall prevail over any other act containing a provision to the contrary enacted by the 2003 Regular Session of the General Assembly.

Section 10. In the event of a conflict, the provisions of this Act shall prevail with regard to any other act passed by the 2003 Regular Session of the General Assembly.

Section 11. Since the present duty firearms of the Department of State Police are in need of replacement and since the General Assembly has determined that the newly purchased firearms not be issued and that both firearms be replaced as provided in Sections 1 to 10 of this Act, 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 12, 2003

CHAPTER 66

(HB 380)

AN ACT relating to family courts.

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

SECTION 1. KRS 23A.100 IS REPEALED, REENACTED, AND AMENDED TO READ AS FOLLOWS:

- (1) *As a division of Circuit Court with general jurisdiction pursuant to Section 112(6) of the Constitution of Kentucky, a family court division of Circuit Court shall retain jurisdiction in the following cases:*
 - (a) *Dissolution of marriage;*
 - (b) *Child custody;*
 - (c) *Visitation;*
 - (d) *Maintenance and support;*
 - (e) *Equitable distribution of property in dissolution cases;*
 - (f) *Adoption; and*
 - (g) *Termination of parental rights.*
- (2) *In addition to general jurisdiction of Circuit Court, a family court division of Circuit Court shall have the following additional jurisdiction:*
 - (a) *Domestic violence and abuse proceedings under KRS Chapter 403 subsequent to the issuance of an emergency protective order in accord with local protocols under KRS 403.735;*
 - (b) *Proceedings under the Uniform Act on Paternity, KRS Chapter 406, and the Uniform Interstate Family Support Act, KRS 407.5101 to 407.5902;*
 - (c) *Dependency, neglect, and abuse proceedings under KRS Chapter 620; and*
 - (d) *Juvenile status offenses under KRS Chapter 630, except where proceedings under KRS Chapter 635 or 640 are pending.*
- (3) *Family court divisions of Circuit Court shall be the primary forum for cases in this section, except that nothing in this section shall be construed to limit the concurrent jurisdiction of District Court.*

SECTION 2. KRS 23A.110 IS REPEALED, REENACTED, AND AMENDED TO READ AS FOLLOWS:

The additional jurisdiction of a family court division of Circuit Court shall be liberally construed and applied to promote its underlying purposes, which are as follows:

- (1) *To strengthen and preserve the integrity of the family and safeguard marital and familial relationships;*
- (2) *To protect children and adult family members from domestic violence and abuse;*
- (3) *To promote the amicable settlement of disputes that have arisen between family members;*
- (4) *To assure an adequate remedy for children adjudged to be dependent, abused, or neglected, and for those children adjudicated as status offenders;*
- (5) *To mitigate the potential harm to the spouses and their children caused by the process of legal dissolution of marriage;*

- (6) *To make adequate provision for the care, custody, and support of minor children of divorce and for those children who have been born out of wedlock; and*
- (7) *To provide a level of proceedings, when necessary, that is more appropriate to a family court division of Circuit Court.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 118A TO BE NUMBERED AS KRS 118A.045 IS CREATED TO READ AS FOLLOWS:

- (1) *Family court judges shall be elected from the judicial circuits established in KRS Chapter 23A and from a family court division so designated by the Supreme Court pursuant to Section 112(6) of the Constitution of Kentucky.*
- (2) *All family court divisions as certified by the Clerk of the Supreme Court of Kentucky shall have such designation specifically appear on the ballot. The words "Family Court" shall be printed on the ballot in an appropriate location for divisions of Circuit Court certified by the Clerk of the Supreme Court of Kentucky as family court divisions. Prior to the first Wednesday after the first Monday in November of each scheduled election year, the Clerk of the Supreme Court of Kentucky shall certify the divisions of Circuit Court within a judicial circuit that are designated as family court divisions and deliver such certification to the Secretary of State.*
- (3) *In judicial circuits having two (2) or more judges there shall be, for election purposes, numbered divisions corresponding to the number of Circuit Judges in the circuit. Each judge shall be elected at large from the entire circuit.*
- (4) *Each numbered division of a circuit shall be voted upon and shall be tallied separately.*

Section 4. 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) ***Fifth Judicial Circuit***~~Second Judicial Circuit~~.
- (2) Sixth Judicial Circuit.
- (3) Eleventh Judicial Circuit.
- (4) Twelfth Judicial Circuit.
- (5) Fourteenth Judicial Circuit.
- (6) ***Eighteenth***~~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) ***Thirty-seventh Judicial Circuit.***
- (13) Forty-first Judicial Circuit.
- (14)~~(13)~~ ***Forty-third Judicial Circuit.***
- (15) Forty-sixth Judicial Circuit.
- (16)~~(14)~~ ***Fiftieth Judicial Circuit.***
- (17) Fifty-first Judicial Circuit.
- (18)~~(15)~~ Fifty-fourth Judicial Circuit.

Section 5. KRS 23A.045 is amended to read as follows:

The following judicial circuits are entitled to three (3) Circuit Judges and shall have three (3) numbered divisions of the Circuit Court:

- (1) ***Second Judicial Circuit.***
- (2) Third Judicial Circuit.
- (3)~~(2)~~ Eighth Judicial Circuit.
- (4)~~(3)~~ Ninth Judicial Circuit.
- (5)~~(4)~~ ***Seventeenth~~(Twenty-fifth)~~ Judicial Circuit.***
- (6)~~(5)~~ Twenty-eighth Judicial Circuit.
- (7)~~(6)~~ Thirty-first Judicial Circuit.
- (8)~~(7)~~ Thirty-fifth Judicial Circuit.
- (9)~~(8)~~ Forty-eighth Judicial Circuit.

Section 6. KRS 23A.050 is amended to read as follows:

The ***following judicial circuits are***~~Sixteenth Judicial Circuit is~~ entitled to four (4) judges and shall have four (4) numbered divisions of the Circuit Court:

- (1) ***Sixteenth Judicial Circuit.***
- (2) ***Twenty-fifth Judicial Circuit.***

Section 7. KRS 23A.060 is amended to read as follows:

The Twenty-second Judicial Circuit is entitled to ***nine (9)***~~eight (8)~~ judges and shall have ***nine (9)***~~eight (8)~~ numbered divisions of the Circuit Court.

Section 8. KRS 23A.070 is amended to read as follows:

The Thirtieth Judicial Circuit is entitled to ***twenty-three (23)***~~seventeen (17)~~ judges and shall have ***twenty-three (23)***~~seventeen (17)~~ numbered divisions of the Circuit Court.

Section 9. 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) ***Second Judicial District.***
- (2) Third Judicial District.
- (3)~~(2)~~ Fourth Judicial District.
- (4)~~(3)~~~~Fifth Judicial District.~~
- ~~(4)~~ Ninth Judicial District.
- (5) Eleventh Judicial District.
- (6) Twelfth Judicial District.
- (7) Thirteenth Judicial District.
- (8) Fourteenth Judicial District.
- (9) Fifteenth Judicial District.
- (10) ***Seventeenth~~(Eighteenth)~~ Judicial District.***
- (11) Twenty-first Judicial District.
- (12) Twenty-fourth Judicial District.
- (13) ***Twenty-fifth Judicial District.***
- (14) Twenty-seventh Judicial District.

- ~~(15)~~~~(14)}~~ Twenty-eighth Judicial District.
- ~~(16)~~~~(15)}~~ Thirty-first Judicial District.
- ~~(17)~~~~(16)}~~ Thirty-second Judicial District.
- ~~(18)~~~~(17)}~~ Thirty-fourth Judicial District.
- ~~(19)~~~~(18)}~~ Thirty-fifth Judicial District.
- ~~{(19) — Thirty-seventh Judicial District.}~~
- (20) Thirty-eighth Judicial District.
- (21) Fortieth Judicial District.
- (22) Forty-first Judicial District.
- ~~(23){ — Forty-third Judicial District.}~~
- ~~(24)}~~ Forty-sixth Judicial District.
- ~~(24)~~~~(25)}~~ Forty-eighth Judicial District.
- ~~(25)~~~~(26) — Fiftieth Judicial District.}~~
- ~~(27)}~~ Fifty-first Judicial District.
- ~~(26)~~~~(28)}~~ Fifty-third Judicial District.
- ~~(27)~~~~(29)}~~ Fifty-fourth Judicial District.
- ~~(28)~~~~(30)}~~ Fifty-fifth Judicial District.
- ~~(29)~~~~(31)}~~ Fifty-sixth Judicial District.

Section 10. KRS 24A.060 is amended to read as follows:

The following judicial districts are entitled to three (3) District Judges and shall have three (3) numbered divisions of the District Court:

- ~~(1){ — Second Judicial District.}~~
- ~~(2)}~~ Sixth Judicial District.
- ~~(2)~~~~(3)}~~ Eighth Judicial District.
- ~~{(4) — Seventeenth Judicial District.}~~
- ~~(5) — Twenty-fifth Judicial District.}~~

Section 11. KRS 24A.080 is amended to read as follows:

The Twenty-second Judicial District is entitled to *five* ~~(5)~~~~{six (6)}~~ District Judges and shall have *five* ~~(5)~~~~{six (6)}~~ numbered divisions of the District Court.

Section 12. KRS 24A.090 is amended to read as follows:

The Thirtieth Judicial District is entitled to *seventeen* ~~(17)~~~~{twenty-three (23)}~~ District Judges and shall have *seventeen* ~~(17)~~~~{twenty-three (23)}~~ numbered divisions of the District Court.

Section 13. KRS 23A.010 is amended to read as follows:

- (1) The Circuit Court is a court of general jurisdiction; it has original jurisdiction of all justiciable causes not exclusively vested in some other court.
- (2) The Circuit Court has appellate jurisdiction as specified in this chapter.
- (3) The Circuit Court is a court of record and of continuous session.
- (4) The Circuit Court may be authorized by law to review the actions or decisions of administrative agencies, special districts or boards. Such review shall not constitute an appeal but an original action.

~~{(5) Whenever the Chief Justice by order pursuant to Section 110(5)(b) of the Constitution of Kentucky or the Supreme Court pursuant to Section 116 of the Constitution of Kentucky shall establish a family court within a judicial circuit, the Circuit Court shall exercise concurrent jurisdiction, or as the Chief Justice or Supreme Court may direct, exclusive jurisdiction in all matters assigned to the family court, notwithstanding any other statute relating to the subject matter jurisdiction of the Circuit and District Courts.}~~

Section 14. KRS 24A.010 is amended to read as follows:

- (1) The District Court is a court of limited jurisdiction; it has original jurisdiction in all matters specified in KRS 24A.110 to 24A.130.
- (2) The District Court may be authorized by law to adjudicate the actions or decisions of local administrative agencies, special districts, or boards. Such adjudication shall not constitute an appeal but an original action.
- (3) The District Court has no appellate jurisdiction.
- (4) The District Court is a court of record.
- (5) The District Court is a court of continuous session. Sessions of the District Court may be scheduled at such times, including nights, weekends, and holidays, and at such locations, as may be convenient, subject to the direction of the Supreme Court by rule or order.

~~{(6) Whenever the Chief Justice, by order pursuant to Section 110(5)(b) of the Constitution of Kentucky, or the Supreme Court, pursuant to Section 116 of the Constitution of Kentucky, establishes a family court within a judicial circuit, the District Court shall exercise concurrent jurisdiction, or as the Chief Justice or the Supreme Court may direct, exclusive jurisdiction in all matters assigned to the family court, notwithstanding any other statute relating to the subject matter jurisdiction of the Circuit and District Courts.}~~

Section 15. KRS 24A.120 is amended to read as follows:

- (1) District Court shall have exclusive jurisdiction in:
 - (a) Civil cases in which the amount in controversy does not exceed four thousand dollars (\$4,000), exclusive of interest and costs, except matters affecting title to real estate and matters of equity; however, nothing herein shall prohibit execution levy on real estate in enforcement of judgment of District Court;
 - (b) Matters involving probate, except matters contested in an adversary proceeding. Such adversary proceeding shall be filed in Circuit Court in accordance with the Kentucky Rules of Civil Procedure and shall not be considered an appeal; and
 - (c) Matters not provided for by statute to be commenced in Circuit Court shall be deemed to be nonadversarial within the meaning of paragraph (b) of this subsection and therefore are within the jurisdiction of the District Court.

~~{(2) Whenever the Chief Justice, by order pursuant to Section 110(5)(b) of the Constitution of Kentucky, or the Supreme Court, pursuant to Section 116 of the Constitution of Kentucky, establishes a family court within a judicial circuit, the District Court shall exercise concurrent jurisdiction, or as the Chief Justice or the Supreme Court may direct, exclusive jurisdiction in all matters assigned to the family court, notwithstanding any other statute relating to the subject matter jurisdiction of the Circuit and District Courts.}~~

Section 16. KRS 22A.020 is amended to read as follows:

- (1) Except as provided in Section 110 of the Constitution, an appeal may be taken as a matter of right to the Court of Appeals from any conviction, final judgment, order, or decree in any case in Circuit Court, ***including a family court division of Circuit Court***, unless such conviction, final judgment, order, or decree was rendered on an appeal from a court inferior to Circuit Court.
- (2) The Court of Appeals has jurisdiction to review interlocutory orders of the Circuit Court in civil cases, but only as authorized by rules promulgated by the Supreme Court.
- (3) Notwithstanding any other provision in this section, there shall be no review by appeal or by writ of certiorari from that portion of a final judgment, order or decree of a Circuit Court dissolving a marriage.
- (4) An appeal may be taken to the Court of Appeals by the state in criminal cases from an adverse decision or ruling of the Circuit Court, but only under the following conditions:

- (a) Such appeal shall not suspend the proceedings in the case.
 - (b) Such appeal shall be taken in the manner provided by the Rules of Criminal Procedure and the Rules of the Supreme Court, except that the record on appeal shall be transmitted by the clerk of the Circuit Court to the Attorney General; and if the Attorney General is satisfied that review by the Court of Appeals is important to the correct and uniform administration of the law, he may deliver the record to the clerk of the Court of Appeals within the time prescribed by the above-mentioned rules.
 - (c) When an appeal is taken pursuant to this subsection, the Court of Appeals, if the record so warrants, may reverse the decision of the Circuit Court and order a new trial in any case in which a new trial would not constitute double jeopardy or otherwise violate any constitutional rights of the defendant.
- (5) Any party aggrieved by the judgment of the Circuit Court in a case appealed from a court inferior thereto may petition the Court of Appeals for a writ of certiorari.

Section 17. KRS 118A.010 is amended to read as follows:

~~{(1)—}~~As used in this chapter, *unless the context otherwise requires*:~~{word "election" refers only to elections for offices of the Court of Justice.}~~

(1)~~{(2)}~~ ~~{A—}~~"Ballot" or "official ballot" means the voting machine ballot label, ballot cards, paper ballots, an absentee ballot, a special ballot, or a supplemental paper ballot which has been authorized for the use of the voters in any primary, general, or special election by the Secretary of State or the county clerk;~~{—}~~

(2)~~{(3)}~~ *"Ballot card" means a tabulating card on which votes may be recorded by a voter by use of a voting device or by marking with a pen or special marking device;*~~{ "Ballot label" means the cards, papers, booklet, pages or other material on which appear the names of candidates and the questions to be voted on by means of ballot cards or voting machines. }~~

(3)~~{(4)}~~ *"Ballot label" means the cards, papers, booklet, pages, or other material on which appear the names of candidates and the questions to be voted on by means of ballot cards or voting machines;*~~{ "Ballot card" means a tabulating card on which votes may be recorded by a voter by use of a voting punch device or by marking with a pen or special marking device. }~~

(4)~~{(5)}~~ *"Election" refers only to elections for offices of the Court of Justice; and*

(5) "Voting machine" or "machine" shall include lever machines and, as far as applicable, any electronic or electromechanical unit and supplies utilized or relied upon by a voter in casting his vote in an election.

~~{(6)—}~~No provisions of KRS Chapter 118 existing on March 10, 1976, except KRS 118.015 through 118.045 shall apply to such elections. All other provisions of the election laws not inconsistent with this chapter shall be applicable thereto.

Approved March 13, 2003

CHAPTER 67

(SB 36)

AN ACT relating to families and children.

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

Section 1. KRS 194B.010 is amended to read as follows:

The cabinet is the primary state agency responsible for leadership in protecting and promoting the well-being of Kentuckians through the delivery of quality human services. Recognizing that children are the Commonwealth's greatest natural resource and that individuals and their families are the most critical component of a strong society, the cabinet shall deliver social services to promote ~~the[their]~~ safety and security **of Kentuckians** and preserve their dignity. The cabinet shall promote collaboration and accountability among local, public, and private programs to improve the lives of families and children, ***including collaboration with the Council on Accreditation for Children and Family Services or its equivalent in developing strategies consistent with best practice standards for delivery of services.*** The cabinet also is to administer income-supplement programs that protect, develop, preserve, and maintain ***individuals***, families, and children in the Commonwealth.

Approved March 18, 2003

CHAPTER 68

(SB 46)

AN ACT relating to homeland security and declaring an emergency.

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

Section 1. KRS 36.224 is amended to read as follows:

- (1) The Office for Security Coordination is hereby created in the Department of Military Affairs. The Office for Security Coordination shall be headed by an executive director who shall be appointed by the Governor upon the recommendation of the adjutant general.
- (2) The Office for Security Coordination shall coordinate a comprehensive statewide security strategy. The Office for Security Coordination shall coordinate the executive branch's efforts to secure and protect personnel, assets, and facilities within the Commonwealth of Kentucky.
- (3) ***The Office for Security Coordination shall maintain a record of all federal homeland security funding, including grants, received in Kentucky. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use, and any unspent amount.***
 - (a) ***Not later than August 15 of each year, each department headed by an elected officer, as identified in KRS 12.020I., each cabinet headed by an appointed officer, as identified in KRS 12.020II., and each department headed by an appointed officer, as identified in KRS 12.020III., shall submit to the Office for Security Coordination a record of all federal homeland security funding, including grants, received by the cabinet or department during the fiscal year starting with the fiscal year ending June 30, 2003. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use, and any unspent amount.***
 - (b)
 1. ***Not later than August 15 of each year, the Department for Local Government shall submit to the Office for Security Coordination a record of all federal homeland security funding, including grants, received by each city, county, urban-county, charter county, and consolidated local government, including public safety agencies thereof, within Kentucky during each fiscal year starting with the fiscal year ending June 30, 2003. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use, and any unspent amount. The Department for Local Government shall group the units of local government by area development district.***
 2. ***Not later than August 1 of each year, each area development district shall submit to the Department for Local Government a record of all federal homeland security funding, including grants, received by each city, county, urban-county, charter county, and consolidated local government, including public safety agencies thereof, within that area development district during each fiscal year starting with the fiscal year ending June 30, 2003. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use, and any unspent amount.***
 - (c) ***Not later than September 1 of each year, the Office for Security Coordination shall submit the records gathered under this subsection to the Auditor of Public Accounts.***

Section 2. KRS 39A.287 is amended to read as follows:

The adjutant general, as executive head of the Department of Military Affairs and the Division of Emergency Management, utilizing federal funds and existing agency funds, shall:

- (1) Establish and chair an interagency working group comprised of state and private agencies to help identify risks and needs and make a complete assessment of the preparedness of the Commonwealth to respond to acts of war or terrorism, including nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism;
- (2) Collaborate with state and participating private agencies to submit a written preliminary report prior to December 31, 2002, to the Governor, the Legislative Research Commission, and the Interim Joint Committee on Seniors, **Veterans**, Military Affairs, and Public **Protection**~~[Safety]~~ regarding the findings of the assessment of the preparedness of the Commonwealth to respond to acts of war or terrorism, including nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism;
- (3) Develop and implement statewide strategies to respond to acts of war or terrorism, including nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism based upon the information obtained in the needs assessment;
- (4) Provide information explaining how individuals and private organizations, including volunteer and religious organizations, can best prepare for and respond to incidents contemplated by this section and to other threatened, impending, or declared emergencies and whom to contact should they desire to volunteer help or services during such an emergency. The program shall identify and encourage these private organizations to specifically commit to provide food, shelter, personnel, equipment, materials, consultation and advice, or any other services needed to respond to these incidents; and
- (5) (a) Annually assess and update the capability for readiness specified in this section, subject to the continued availability of federal and agency funds. The assessment shall identify the priority of needs, areas of improvement, and the overall progress made in attaining the goals and needs identified in the initial study and in its annual report. ***The assessment shall also include the record of all federal homeland security funding, including grants, gathered under subsection (3) of Section 1 of this Act since the last annual assessment as well as any other relevant homeland security funding information gathered by the adjutant general and the Office for Security Coordination. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use of the funding, and any unspent amount.*** The report shall be submitted to the parties specified in subsection (2) of this section ***and the Auditor of Public Accounts*** not later than ***September 15***~~[December 31]~~ of each year.
 - (b) ***The Auditor of Public Accounts may conduct examination of revenues and expenditures provided under the annual assessment and under subsection (3)(c) of Section 1 of this Act and, if examination findings warrant, may conduct audits. No later than January 30, the Auditor shall submit all examination and audit reports to the Senate Veterans, Military Affairs, and Public Protection Committee and the House Seniors, Military Affairs, and Public Safety Committee.***

Section 3. Whereas Kentucky's homeland security should be enhanced as fast as possible, 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 18, 2003

CHAPTER 69

(SB 60)

AN ACT relating to public health and declaring an emergency.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

- (1) ***Upon application and payment of a thirty-five dollar (\$35) fee, the state registrar shall issue a commemorative copy of a certificate of birth or a certificate of marriage. Fees collected under this section that exceed the administrative costs of this program shall be deposited in a trust and agency account for the Emergency Medical Services for Children Program as provided under Section 2 of this Act.***

- (2) *To assist with offsetting the cost of the initial design and printing of the commemorative certificates of birth and commemorative certificates of marriage, the state registrar shall not be required to issue commemorative certificates of birth or commemorative certificates of marriage until application and payment have been made for a total of two hundred fifty (250) commemorative certificates under subsection (1) of this section. The cabinet shall place each thirty-five dollar fee (\$35) received for the commemorative certificates into a trust and agency account and dedicate those funds to offset the cabinet's design and administrative costs. After the issuance of the first two hundred fifty (250) commemorative certificates, the state registrar shall issue each subsequent commemorative certificate in a timely manner upon receipt of each application and payment and shall not permit subsequent requests to accumulate. If the cabinet has not received two hundred fifty (250) applications accompanied by the thirty-five dollar (\$35) fee within one (1) year following the effective date of this Act, the cabinet shall refund all fees received for the commemorative certificates to the appropriate applicants.*

Section 2. KRS 311A.045 is amended to read as follows:

- (1) The board may employ or contract with a coordinator and other positions who shall serve at the pleasure of the board for the Emergency Medical Services for Children Program for which funding is provided by the General Assembly or through any other sources, including gifts, grants, or federal funds.
- (2) The coordinator shall, subject to the direction of the board:
 - (a) Implement and oversee the Emergency Medical Services for Children Program described in this section; and
 - (b) Serve as liaison for collaboration and coordination between the Emergency Medical Services for Children Program, the board and other public and private organizations, the state traffic safety office, the maternal and child health program, the Medicaid department, the state and local child fatality review and response teams, state and local professional organizations, private sector voluntary organizations, and consumer and community representatives.
- (3) The Emergency Medical Services for Children Program may include but not be limited to the establishment of the following:
 - (a) Guidelines for necessary out-of-hospital medical service equipment;
 - (b) Guidelines and protocols for out-of-hospital pediatric emergency medical services;
 - (c) Assistance in the development and provision of professional education programs for emergency medical services personnel for the provision of emergency care of infants and children;
 - (d) Coordination and cooperation between the Emergency Medical Services for Children Program and other public and private organizations interested or involved in emergency care for children, including those persons and organizations identified in subsection (2)(b) of this section; and
 - (e) *Assistance with the purchase of equipment for the provision of medical services for children only.*

The scope of activities carried out by and the provision of staff for the Emergency Medical Services for Children Program shall be commensurate with the availability of funds.

- (4) *Funds received under this section may be distributed based upon a matching grant system to be developed by the board, and distribution shall be need-based. No single grant shall exceed two thousand dollars (\$2,000) to the same grantee.*
- (5) Funds received by the Emergency Medical Services for Children Program shall be placed in a trust and agency account in the state treasury which shall not lapse unless grant provisions specify otherwise. No funds shall be expended from a grant except by vote of the board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

As used in Sections 3 and 4 of this Act:

- (1) *"Bioterrorism" means the intentional use, to cause or attempt to cause death, disease, or other biological malfunction in any living organism, of any of the following:*
 - (a) *Microorganism;*
 - (b) *Virus;*

- (c) *Infectious substance; or*
- (d) *Biological product that may be engineered as a result of biotechnology or any naturally occurring or bioengineered component of any microorganism, virus, infectious substance, or biological product;*
- (2) *"Commissioner" means the commissioner of the Department for Public Health within the Cabinet for Health Services;*
- (3) *"Department" means the Department for Public Health within the Cabinet for Health Services;*
- (4) *"Disaster location" means any geographical location where a bioterrorism attack, terrorist attack, catastrophic event, natural disaster, or emergency occurs; and*
- (5) *"Emergency responder" means state or local law enforcement personnel, fire department personnel, corrections officers, and emergency medical personnel who may be deployed to a bioterrorism attack, terrorist attack, catastrophic event, natural disaster, or emergency.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) *The department shall offer a vaccination program for emergency responders who may be exposed to infectious diseases when deployed to a disaster location. The program shall include, but not be limited to, vaccinations for hepatitis A, hepatitis B, diphtheria-tetanus, influenza, pneumococcal, and any other diseases for which vaccinations are recommended by the United States Public Health Service and in accordance with Federal Emergency Management Directors Policy. Immune globulin shall be made available when necessary.*
- (2)
 - (a) *Participation in the vaccination program shall be voluntary by emergency responders.*
 - (b) *Participation in the vaccination program shall be mandatory for emergency responders who are:*
 - 1. *Classified as having "occupational exposure" to bloodborne pathogens as defined by the United States Occupational Safety and Health Administration Standard in 29 C.F.R. sec. 1910.1030, who shall be required to take the designated vaccinations; and*
 - 2. *Otherwise required by law to take the designated vaccinations.*
- (3) *An emergency responder shall be exempt from receiving a vaccination when a written statement from a licensed physician is presented to the department indicating that a vaccine is medically contraindicated for that person or the emergency responder signs a written statement that the administration of a vaccination conflicts with his or her religious tenets.*
- (4) *In the event of a vaccine shortage, the commissioner, in consultation with the Governor and the United States Centers for Disease Control and Prevention, shall use federal recommendations to determine the priority for emergency responders.*
- (5) *The department shall notify emergency responders of the availability of the vaccination program and shall provide educational materials to emergency responders on ways to prevent exposure to infectious diseases.*
- (6) *The department may contract with county and local health departments, not-for-profit home health care agencies, hospitals, physicians, or other licensed health care organizations to administer the vaccination program for emergency responders.*
- (7) *This program shall be implemented upon receipt of federal funding or grants for administering an emergency responders vaccination program. Upon receipt of funding, the department shall make vaccines available to emergency responders as provided in this section.*

Section 5. KRS 200.658 is amended to read as follows:

- (1) *There is hereby created the Kentucky Early Intervention System Interagency Coordinating Council to be comprised of twenty-five (25) members to be appointed by the Governor to serve a term of three (3) years. The members of the council shall be geographically and culturally representative of the population of the Commonwealth and conform to the requirements of federal law and regulations. For administrative purposes, the council shall be attached to the Early Childhood Development Authority. Pursuant to federal law and regulations, the membership shall be as follows:*

- (a) At least five (5) members shall be the parents, including minority parents, of a child with a disability who is twelve (12) years of age or less, with at least one (1) being the parent of a child six (6) years of age or less. Each parent shall have knowledge of or experience with programs for infants and toddlers with disabilities;
 - (b) At least five (5) members shall be public or private providers of early intervention services to infants and toddlers with disabilities;
 - (c) At least one (1) member shall be a member of the Kentucky General Assembly;
 - (d) At least one (1) member shall be representative of an entity responsible for personnel preparation and may include personnel from an institution of higher education or preservice training organization;
 - (e) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Public Health;
 - (f) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Medicaid Services;
 - (g) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Mental Health and Mental Retardation Services;
 - (h) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Community Based Services;
 - (i) At least one (1) member shall be the commissioner or designee of the Department of Education;
 - (j) At least one (1) member shall be the commissioner or designee of the Department of Insurance; and
 - (k) At least one (1) member shall be a representative of the Commission for Children with Special Health Care Needs.
- (2) In matters concerning the Kentucky Early Intervention System, the council shall advise and assist the cabinet in areas including, but not limited to, the following:
- (a) Development and implementation of the statewide system and the administrative regulations promulgated pursuant to KRS 200.650 to 200.676;
 - (b) Achieving the full participation, coordination, and cooperation of all appropriate entities in the state, including, but not limited to, individuals, departments, and agencies, through the promotion of interagency agreements;
 - (c) Establishing a process to seek information from service providers, service coordinators, parents, and others concerning the identification of service delivery problems and the resolution of those problems;
 - (d) Resolution of disputes, to the extent deemed appropriate by the cabinet;
 - (e) Provision of appropriate services for children from birth to three (3) years of age;
 - (f) **Identifying**~~Identify~~ sources of fiscal and other support services for early intervention programs;
 - (g) Preparing applications to Part C of the Federal Individuals with Disabilities Education Act (IDEA) and any amendments to the applications;~~and~~
 - (h) Transitioning of infants and toddlers with disabilities and their families from the early intervention system to appropriate services provided under Part B of the Federal Individuals with Disabilities Education Act (IDEA) operated by the state Department of Education; **and**
 - (i) **Developing performance measures to assess the outcomes for children receiving services.**
- (3) The council shall prepare no later than December 30 of each year an annual report on the progress toward and any barriers to full implementation of the Kentucky Early Intervention System for infants and toddlers with disabilities and their families. The report shall include recommendations concerning the Kentucky Early Intervention System, **including recommendations of ways to improve quality and cost effectiveness**, and shall be submitted to the Governor, Legislative Research Commission, and the Secretary of the United States Department of Education.
- (4) No member of the council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of the existence of a conflict of interest.

Section 6. KRS 200.664 is amended to read as follows:

- (1) Upon identification of an eligible infant or toddler with disabilities, representatives of the entity serving as point of entry shall cause a multidisciplinary team, as defined in KRS 200.654, to be created for the child and family.
- (2) The multidisciplinary team shall develop an individualized family service plan, as defined in KRS 200.654, for the child and family.
- (3) The individualized family services plan shall include:
 - (a) A comprehensive multidisciplinary evaluation of the present level of development of and services needed by the child and an assessment of and plan to address the resources, priorities, and concerns of the family;
 - (b) An explanation of the multidisciplinary evaluation and all service options to be made available in the family's cultural language, in their primary mode of communication, or through a speech or language interpreter, whichever is necessary to facilitate comprehension.
- (4) The plan shall be developed within forty-five (45) days of the referral date of the child and family to the point of entry. If the completion of the initial evaluation and assessment is delayed and will not be completed within the forty-five (45) day time period due to the request of the child's parent, illness of the child, or other reasonable circumstances beyond the control of the multidisciplinary team, the point of entry shall document the reason for the delay and shall develop and implement an interim individualized family service plan.
- (5) The informed written consent of the parent or guardian is required prior to the implementation of the plan. The parent may reject some services contained in the plan, however, no services to which the parent consents shall be withheld if the parent does not consent to all services in the plan.
- (6) ***The parent or guardian shall sign an agreement to accept responsibility for being an active participant in the child's plan and for learning skills from providers so that the intensity and frequency of services may decline as the child reaches appropriate developmental levels and the family is able to do more for the child.***
- (7) The plan shall be reviewed by members of the child's current multidisciplinary team or other appropriate entities at no more than six (6) month intervals or more frequently if deemed appropriate based on the needs of the infant or toddler and the family. ***The child shall be evaluated at least annually to determine continuing program eligibility and the effectiveness of services provided to the child.***

Section 7. KRS 311A.195 is amended to read as follows:

- (1) Any emergency medical technician ~~and any~~~~for~~ paramedic ***shall be authorized to***~~may~~ administer epinephrine to any person whom the EMT or paramedic has been called to attend if the EMT or paramedic makes an assessment that the person is exhibiting symptoms consistent with an anaphylactic reaction. The EMT or paramedic shall follow the medical protocol established by the medical director of the employing licensed ambulance service in determining the appropriate dose or doses of epinephrine and the routes for administration.
- (2) Every ambulance provider in the Commonwealth shall:
 - (a) Maintain an adequate supply of epinephrine and disposable sterile needles and syringes on every ambulance that it operates; and
 - (b) Establish medical protocols to be used by EMT providers and paramedics in determining symptoms of an anaphylactic reaction, the appropriate dose or doses of epinephrine, and the routes for administration.

Section 8. Whereas the vaccination of emergency responders is necessary for the preservation of the public peace, health, and safety, an emergency is declared to exist, and Sections 3 and 4 of this Act take effect upon their passage and approval by the Governor or upon their otherwise becoming law.

Approved March 18, 2003

CHAPTER 70**(SB 69)**

AN ACT relating to licensing massage therapists.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 15 of this Act unless the context otherwise requires:

- (1) *"Board" means the Kentucky Board of Licensure for Massage Therapy;*
- (2) *"Board-approved massage program" means one which meets minimum standards for training and curriculum as determined by the board;*
- (3) *"Feldenkrais Method" means a system of somatic education in which touch and words are used to eliminate faulty habits, learn new patterns of self-organization and action, and improve a person's own functional movement patterns. The method is based on principles of physics, biomechanics and an understanding of, or learning about, human development. The practice is federally trademarked and requires permission from the Feldenkrais Guild to use the term and methodology;*
- (4) *"Massage therapist" means a person who is licensed by the board to administer massage or massage therapy to the public for compensation;*
- (5) *"Polarity therapy" means diverse applications affecting the human energy system. These applications include energetic approaches to somatic contact, verbal facilitation, nutrition, exercise, and health education. Polarity therapy does not make medical claims, diagnose physical ailments, or allow prescription of medications. Standards for schools, education, and practice, the administration of a code of ethics, and a registration process are provided by the American Polarity Therapy Association;*
- (6) *"Practice of massage therapy" means the application, by a massage therapist licensed by the board, of a system of structured touch, pressure, movement, and holding to the soft tissues of the human body with the intent to enhance or restore the health and well-being of the client. The practice includes the external application of water, heat, cold, lubricants, salt scrubs, or other topical preparations; use of electromechanical devices that mimic or enhance the actions of the hands; and determination of whether massage therapy is appropriate or contraindicated, or whether referral to another health care practitioner is appropriate; and*
- (7) *"Trager Approach" means a form of movement education that uses subtle directed movements and the skilled touch of a practitioner. The Trager Approach combines physical movement with sensory awareness and internal imagery designed to increase the client's self-awareness and generate physiological changes in the body tissues so as to allow the client to experience a new way of moving his or her body. The practice is federally trademarked.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

Massage therapists practicing under Sections 1 to 15 of this Act shall not perform any of the following: diagnosis of illness or disease; high-velocity, low-amplitude thrust applied to a joint; spinal or pelvic adjustment or chiropractic manipulation; deep physical agent modalities, except hydrotherapy methods; application of ultrasound; or prescription of medication.

SECTION 3. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 15 of this Act shall not preclude:

- (1) *Persons duly licensed, registered, or certified as massage therapists in another state or territory, the District of Columbia, or a foreign country when invited to this state to teach a course related to massage therapy or to consult with a person licensed under Sections 1 to 15 of this Act;*
- (2) *Students practicing massage therapy while enrolled in a program recognized by the board and completing a clinical requirement for graduation while under the supervision of a board-licensed massage therapist;*
- (3) *A person administering a massage to members of the person's immediate family;*

- (4) *Persons who restrict manipulation of the soft tissues of the human body to the hands, feet, or ears, and do not hold themselves out to be massage therapists;*
- (5) *Persons who use procedures within the scope of practice of their profession, which has established standards and ethics, provided that their services use touch, words, and directed movement to deepen awareness of existing patterns of movement in the body as well as to suggest new possibilities of movement while engaged, but who are not designated or implied to administer massage or to be massage therapists. These practices include, but are not limited to, the Feldenkrais Method, polarity therapy, and the Trager Approach;*
- (6) *Persons engaged within the scope of practice of a profession with established standards and ethics in which touch is limited to what is essential for palpation and affecting of the human energy system, provided that their services are not designated or implied to be massage or massage therapy;*
- (7) *Persons duly licensed, certified, or registered in another state or territory, the District of Columbia, or a foreign country when incidentally in this state to provide service as a part of an emergency response team working in conjunction with disaster relief officials or as part of a charity event;*
- (8) *Students participating in massage therapy classes or continuing education while in the classroom or practicing on a classmate and not holding themselves out as massage therapists or accepting compensation for the practice; or*
- (9) *Practitioners of the following occupations and professions regulated by state law while engaging in the practices for which they are duly licensed and while not holding themselves out to be massage therapists:*
 - (a) *Physicians, osteopaths, podiatrists, and athletic trainers regulated under KRS Chapter 311;*
 - (b) *Chiropractors regulated under KRS Chapter 312;*
 - (c) *Registered nurses and practical nurses regulated under KRS Chapter 314;*
 - (d) *Barbers and cosmetologists regulated under KRS Chapters 317 and 317A, respectively;*
 - (e) *Occupational therapists regulated under KRS Chapter 319A; and*
 - (f) *Physical therapists regulated under KRS Chapter 327.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

No person shall practice massage therapy or hold himself or herself out to be a massage therapist unless the person meets the educational and licensing requirements of Sections 9 and 11 of this Act and holds a valid license that has not been suspended or revoked.

- (1) *A licensed massage therapist may represent himself or herself as a massage therapist or licensed massage therapist and may use the abbreviations "M.T." or "L.M.T." as part of or immediately following his or her name to identify the profession.*
- (2) *It shall be unlawful for any person, or for any business entity, its employees, agents, or representatives to practice massage or massage therapy or to use in connection with his, her, or its name or business activity the words "massage," "massage therapy," "massage therapist," "massage practitioner," "masseur," or "masseuse," or the letters "M.T." or "L.M.T.," or any other words, letters, abbreviations or insignia indicating or implying directly or indirectly that massage therapy is provided or supplied unless massage therapy is provided by a massage therapist licensed and practicing in accordance with Sections 1 to 15 of this Act.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

- (1) *There is created a board to be known as the Kentucky Board of Licensure for Massage Therapy, which shall be an independent agency attached to the Division of Occupations and Professions for administrative and clerical purposes.*
- (2) *The Governor shall appoint seven (7) members to serve on the board with the following representation:*
 - (a) *Five (5) members who are massage therapists licensed under Sections 1 to 15 of this Act, who have been in the practice of massage therapy for at least five (5) of the last seven (7) years prior to the effective date of this Act, and who are residents of Kentucky;*

- (b) *Of these five (5), at least one (1) but no more than two (2) shall own or direct a board-approved massage therapy training program; and*
- (c) *Two (2) members shall be appointed by the Governor and shall serve as members at large who are neither licensed massage therapists nor spouses of persons who are licensed, or have a direct or indirect interest in the profession regulated under Sections 1 to 15 of this Act. One (1) of the two (2) may hold a license in another health care profession.*
- (3) *Appointments shall be for three (3) years with initial appointments as follows: three (3) appointees shall serve three (3) year terms; two (2) shall serve two (2) year terms; and two (2) shall serve one (1) year terms. The Governor shall assign terms to initial members at his or her discretion.*
- (4) *The board shall elect initially, and annually thereafter, a chair, vice chair, and secretary from its membership and shall meet at least once per year, and more often as deemed necessary, at a time and at a place in Kentucky for the board to fulfill its duties.*
- (5) *Each member of the board shall receive a per diem not to exceed one hundred dollars (\$100) and other actual and necessary expenses for each day he or she is actually engaged in the discharge of the board's official duties.*
- (6) *Upon recommendation of the board, the Governor may remove any member of the board for a poor attendance record, neglect of duty, or malfeasance in office.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

- (1) *The board shall administer and enforce the provisions of Sections 1 to 15 of this Act and shall have the responsibility to evaluate the qualifications of applicants for licensure and to authorize issuing, renewing, suspending, and revoking licenses.*
- (2) *The board may institute civil and criminal proceedings against violators of Sections 1 to 15 of this Act, shall investigate alleged violations brought to its attention, and shall take appropriate action. The Attorney General, Commonwealth's attorneys, and county attorneys shall assist the board in prosecuting violations of Sections 1 to 15 of this Act.*
- (3) *The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, to carry out and enforce provisions of Sections 1 to 15 of this Act, including creating a code of ethical standards, standards of practice for licensed massage therapists, and continuing education requirements.*
- (4) *The board shall keep a record of its proceedings and a register of all persons licensed as massage therapists. The register shall include the name, license number and date of issue, last known place of business, and residence of each licensee. The board shall publish annually a directory of licensed massage therapists and their places of business. The list shall be available to any Kentucky citizen upon request and payment of a fee not to exceed the cost of the publication.*
- (5) *The board shall make an annual report to the Governor and the General Assembly, which shall contain an account of its duties performed, actions taken, and appropriate recommendations.*
- (6) *The board may seek an injunction in Franklin Circuit Court against any individual who practices massage therapy in the Commonwealth without a license.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

- (1) *All fees and other moneys received by the board pursuant to the provisions of Sections 1 to 15 of this Act shall be deposited in the State Treasury to the credit of a revolving fund for the use of the board.*
- (2) *No part of this revolving fund shall revert to the general funds of this Commonwealth.*
- (3) *The compensation of members of the board and all of the employees of the board and all expenses incurred by the board shall be paid from this revolving fund.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

The following fees shall be required of licensees and prospective applicants:

- (1) *Application fee of fifty dollars (\$50), which shall be credited to the initial license fee for successful applicants;*
- (2) *Initial, nonrefundable license fee not to exceed one hundred twenty-five dollars (\$125);*

- (3) *Biennial renewal fees not to exceed one hundred dollars (\$100);*
- (4) *Late renewal fees not to exceed one hundred fifty dollars (\$150); and*
- (5) *Within sixty (60) days of the date of reinstatement, fees not to exceed two hundred dollars (\$200).*

SECTION 9. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

- (1) *Between the effective date of this Act and the date two (2) years following the effective date of this Act, the board shall issue an initial license as a massage therapist to an applicant who:*
 - (a) *Is eighteen (18) years of age or older;*
 - (b) *Has paid the application fee and other fees required by the board;*
 - (c) *Is a person of good moral character;*
 - (d) *Has successfully completed a course of study consisting of a minimum of five hundred (500) classroom hours of supervised instruction in a massage therapy training program approved by the board; and*
 - (e) *Has successfully passed an examination administered by a certifying agency that has been approved by the National Commission for Certifying Agencies.*
- (2) *On and after the date two (2) years following the effective date of this Act, the board may issue a license as a massage therapist to an applicant who:*
 - (a) *Is eighteen (18) years of age or older;*
 - (b) *Has paid the application fee and other fees required by the board;*
 - (c) *Is a person of good moral character;*
 - (d) *Has successfully completed a course of study consisting of a minimum of six hundred (600) classroom hours of supervised instruction in a massage therapy training program approved by the board; and*
 - (e) *Has successfully passed an examination administered by a certifying agency that has been approved by the National Commission for Certifying Agencies.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

The board may grant a license to any person who is licensed, certified, or registered in another state or country that has standards at least as stringent as those required by Section 9 of this Act. Applicants who are not from a state that has standards at least as stringent as those required by Section 9 of this Act may appeal to the board for a hearing to determine if their experience and education meet the criteria.

SECTION 11. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

Between the effective date of this Act and the date two (2) years following the effective date of this Act, the board shall issue a license to an applicant who meets the requirements of paragraphs (a), (b), and (c) of subsection (1) of Section 9 of this Act and one (1) of the following:

- (1) *Has successfully completed a course of study consisting of a minimum of five hundred (500) classroom hours of supervised instruction in a massage therapy training program approved by the Kentucky State Board for Proprietary Education or its equivalent in other states;*
- (2) *Has received the designation of "Nationally Certified" or "Internationally Certified" by the National Certification Board for Therapeutic Massage and Bodywork or other massage therapist certifying agency approved by the National Commission for Certifying Agencies;*
- (3) *Has provided documentation satisfactory to the board that the applicant has practiced massage therapy for at least seven (7) years prior to the effective date of this Act;*
- (4) *Has provided documentation satisfactory to the board that the applicant has practiced massage therapy for at least one (1) year and has completed two hundred (200) hours of formal training; or*
- (5) *Holds a current and valid license, certificate, or registration in another state with substantially equivalent requirements.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

When renewing a license, each licensee shall document the successful completion of the required board-approved continuing education credits. Twenty-four (24) hours of training shall be required for each two (2) year renewal period. A maximum of twelve (12) additional hours may be carried over into the next renewal period. Courses may include ethics, business practices, science, and techniques related to massage therapy.

SECTION 13. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

- (1) *The board may deny or refuse to renew a license, may suspend or revoke a license, may issue an administrative reprimand, or may impose probationary conditions when the licensee or applicant has engaged in unprofessional conduct that has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include the following:*
 - (a) *Obtaining or attempting to obtain a license by fraud, misrepresentation, concealment of material facts, or making a false statement to the board;*
 - (b) *Being convicted of a felony in any court if the act or acts for which the licensee or applicant for license was convicted are determined by the board to have a direct bearing on whether the person is trustworthy to serve the public as a licensed massage therapist. "Conviction," as used in this paragraph, shall include a finding or verdict of guilty, an admission of guilt, or a plea of nolo contendere in a court of law;*
 - (c) *Violating any lawful order or administrative regulation promulgated by the board;*
 - (d) *Violating any provision of this chapter;*
 - (e) *Having sexual contact as defined by KRS 510.010(7) with a client or having engaged or attempted to engage in lewd or immoral conduct with any client or patient;*
 - (f) *Engaging in fraud or material deception in the delivery of professional services, including reimbursement or advertising services, in a false or misleading manner; or*
 - (g) *Evidence of gross negligence or gross incompetence in the practice of massage therapy.*
- (2) *The board may, at its discretion, deny, refuse to renew, suspend or revoke a license, or impose probationary conditions following an administrative hearing pursuant to KRS Chapter 13B and in accordance with administrative regulations promulgated by the board.*
- (3) *The surrender of a license shall not deprive the board of jurisdiction to proceed with disciplinary actions under Sections 1 to 15 of this Act.*

SECTION 14. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

- (1) *A person, institution, or business entity desiring to have the board determine the standing of a massage therapy program of instruction shall file a completed application for a certificate of good standing with the board on a form prescribed by the board. The completed application shall provide proof acceptable to the board that the following criteria have been met:*
 - (a) *The program is licensed to operate by the Kentucky State Board of Proprietary Education or its equivalent in another state;*
 - (b) *A curriculum statement showing clock hours devoted to each subject with the following minimums:*
 1. *One hundred (100) hours of anatomy, physiology, or pathology;*
 2. *A two hundred (200) hour course to include massage theory, technique, and practice focusing on gliding strokes, kneading, direct pressure, deep friction, joint movement, superficial warming techniques, percussion, compression, vibration, jostling, shaking, and rocking; and*
 3. *Two hundred (200) hours of approach to the business of massage, specifically including contraindications, benefits, business, history, ethics, legalities of massage, and courses designed to meet the school's specific program objectives.*

The board may use its discretion in allotting the additional one hundred (100) curricular hours that are required under Section 9 of this Act;

- (c) *A listing of instructional staff and their qualifications showing a minimum educational equivalent for each instructor and aide for licensure under Sections 1 to 15 of this Act, or proof of qualifying*

for issuance of a license under Section 10 of this Act. Instructors in the practical courses shall be required to have three (3) years of experience in the practice of massage therapy.

- (2) *The board shall accept National Certification Board for Therapeutic Massage and Bodywork guidelines in approving continuing education.*

SECTION 15. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

- (1) *Sections 1 to 15 of this Act supersede all ordinances or regulations regulating massage therapists in any city, county, urban-county, charter county, or consolidated local government.*
- (2) *This article does not affect city, county, urban-county, charter county, or consolidated local government regulations relating to zoning requirements or occupational license fees pertaining to health care professions.*

Approved March 18, 2003

CHAPTER 71

(SB 74)

AN ACT relating to the Kentucky State Corrections Commission.

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

Section 1. KRS 196.081 is repealed, reenacted as a new section of KRS 196.700 to 196.735, and amended to read as follows:

- (1) *To develop and implement a statewide strategic plan for community corrections programs,*~~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 *eleven (11)*~~twelve (12)~~ members as follows:
- (a) The *deputy commissioner of the division of community services and local facilities*~~Attorney General~~;
 - (b) *A Circuit Court judge appointed by the Chief Justice*~~The secretary of the Justice Cabinet~~;
 - (c) *A county judge/executive appointed by the Governor*~~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 *appointed*~~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;
 - ~~(e)~~~~(j)~~ A Commonwealth's attorney *appointed*~~chosen~~ by the Governor~~from a list of three (3) submitted by the Prosecutors Advisory Council~~; ~~and~~
 - (f) *A victim, as that term is defined in KRS 346.020, appointed by the Governor;*
 - (g) *Two (2) service providers from the field of mental health, substance abuse treatment, or vocational and educational training appointed by the Governor;*
 - (h) *The executive director of the Office of the Criminal Justice Council or the executive director's designee;*
 - (i) *The executive director of the Parole Board; and*
 - ~~(j)~~~~(k)~~ The *public advocate or his or her designee*~~State Public Advocate~~.

- (2) The terms of those *members*~~[representatives]~~ appointed by the *appointing authority*~~[Governor]~~ shall be three (3) years. These members shall serve at the pleasure of the *appointing authority*~~[Governor]~~ and shall be eligible for reappointment. If there is a vacancy, the *appointing authority*~~[Governor]~~ shall immediately make an appointment effective for the unexpired term.
- (3) The *chairperson of the commission shall be the deputy commissioner of the division of community services and local facilities*~~[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 *chairperson*~~[chairman]~~ who shall preside and exercise the functions of *the chairperson*~~[chairman]~~ during absence or disability of the *chairperson*~~[chairman]~~.
- (4) Regular meetings of the commission shall be held at least once every *four (4)*~~[three (3)]~~ months at a place, day, and hour determined by the commission. Special meetings shall be held when needed as determined by the *chairperson*~~[chairman]~~. If *five (5)*~~[six (6)]~~ or more members of the commission request in writing that the *chairperson*~~[chairman]~~ call a special meeting, *then the chairperson*~~[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 *administrative functions of the* commission shall be *performed by a full time employee of the department who is selected by the commissioner*~~[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~~

- ~~(1) 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 2. A NEW SECTION OF KRS 196.700 TO 196.735 IS CREATED TO READ AS FOLLOWS:

The commission shall:

- (1) Develop a statewide strategic plan for the development and implementation of goals and objectives, target populations, and program criteria for community corrections programs;*
- (2) Conduct, in collaboration with community corrections boards, a statewide assessment of community corrections programs;*
- (3) Award all grant moneys to community corrections programs;*
- (4) Review community correction program plans and their implementation to ensure compliance with the statewide strategic plan, including the following goals:*
 - (a) Effectiveness of community corrections programs in maintaining public safety;*
 - (b) Reduction of local commitments to the department;*
 - (c) Reduction in the rate of recidivism; and*
 - (d) Reduction in revocations of probation and parole;*
- (5) Provide technical assistance, support, and training to local boards;*
- (6) Submit an annual report no later than September 1 of each year to the commissioner, the Governor, and the General Assembly which includes at least the following information:*
 - (a) The status of the implementation of the statewide strategic plan;*
 - (b) The effectiveness of community corrections programs in achieving the goals outlined in subsection (4) of this section; and*
 - (c) An accounting of the distribution of grants and other funds; and*
- (7) Administer the provisions of KRS 196.700 to 196.735.*

Section 3. KRS 196.705 is amended to read as follows:

~~[(1) In addition to its responsibilities under KRS 196.081, the Kentucky State Corrections Commission shall administer the provisions of KRS 196.700 to 196.735.~~

~~(2)]~~The purposes of *the commission and community corrections programs shall be to:*

- (1) *Provide the judicial system with sentences to be used in lieu of incarceration;*
- (2) *Develop community-based*~~[KRS 196.700 to 196.735 are to impose community-based sanctions in light of the needs of crime victims and the community to reduce prison overcrowding and improve management within the Department of Corrections by providing the judicial system with sentences to be used in lieu of, at less cost, and to better effect on both victims, the community, and the offender than imprisonment. In furtherance of this purpose, KRS 196.700 to 196.735 provide for the following:~~
 - ~~(a) Development of]~~ sentencing alternatives to incarceration for certain individuals convicted of a felony;
 - (3) *Monitor and enforce the payment of*~~[(b) Increased opportunities and requirements for certain individuals convicted of a felony to make]~~ restitution to victims of crime and the community through financial reimbursement,~~[or]~~ community service, *or both;*
 - (4) *Stimulate*~~[(c)]~~ local involvement ~~in~~*to assure that* community corrections programs *to assure that they* are specifically designed to meet the needs of the sentencing court and the community; and
 - (5) *Reduce*~~[(d) Reduced]~~ expenditures of state funds *by increasing community-based sentencing, reducing the rate of recidivism, and reducing revocations of probation and parole*~~[through an increase in alternatives to incarceration so that new prisons need not be built or new space added].~~

Section 4. KRS 196.710 is amended to read as follows:

- (1) The *commission*~~[director]~~ shall award grants to community corrections programs in accordance with the policies established by KRS 196.700 to 196.735 and in accordance with any laws *enacted or promulgated*~~[made]~~ for that purpose, including any branch budget bill and appropriation provisions~~[, and shall adopt administrative regulations for the implementation, operation, and monitoring of community corrections programs].~~
- (2) Grants shall be awarded~~[by the director]~~ to community corrections programs whose community corrections program plans meet the requirements set forth in KRS 196.720 and which, in the *commission's*~~[director's]~~ judgment, promise to meet the goals set forth in KRS 196.700 to 196.735. Grants shall be awarded to encourage a range of services in each *judicial circuit*~~[jurisdiction]~~.
- (3) Grants may be awarded only to *community corrections* programs~~[or agencies]~~ which have established community corrections boards as provided in KRS 196.725 unless the *commission*~~[director]~~ determines that the *community corrections* program~~[or agency]~~ is governed by a board which will serve the same functions as described in KRS 196.700 to 196.735, and that establishment of a new or additional board as described in KRS 196.725 would impose an administrative burden upon or pose a conflict of interest for the program~~[or agency]~~.
- (4) Grants shall not be awarded to programs that have failed to accomplish the *goals*~~[purposes]~~ set forth in *subsection (4) of Section 2 of this Act*~~[KRS 196.705]~~ and that show no promise of doing so in the future, as determined pursuant to KRS 196.735.
- (5) Preference in funding may be given to *judicial circuits*~~[areas of the state]~~ in which programs and services do not exist or are largely inadequate.

Section 5. KRS 196.720 is amended to read as follows:

Community corrections programs~~[Agencies]~~ applying for grants under KRS 196.700 to 196.735 shall prepare a community corrections program plan for the judicial circuit, as prescribed by the *commission*~~[director]~~. More than one (1) community corrections program plan may be prepared, submitted, and approved for any one (1) judicial circuit. The plan shall include:

- (1) Objectives of the community corrections program described in the community corrections program plan.
- (2) Realistic goals for reduction of offenders committed to prison for each county within the judicial circuit, and a system of monitoring the number of commitments to prison.

- (3) Procedures for identifying targeted offenders, and a plan for referral of targeted offenders to the community corrections program.
- (4) Procedures for preparing and presenting community penalty plans to the court, when applicable.
- (5) Procedures for obtaining services from existing public or private agencies, and a detailed budget for staff, contracted services, and all other costs.
- (6) Procedures for monitoring the progress of offenders on community penalty plans and for cooperating with the probation personnel who have supervisory responsibility for the offender, when applicable.
- (7) Procedures for returning offenders who do not comply with their community penalty plan to court for action by the court.
- (8) Procedures for evaluating the program's effect on numbers of prison commitments *and revocations of probation and parole*.

Section 6. KRS 196.735 is amended to read as follows:

The ~~commission~~~~director~~ shall evaluate each community corrections program on an annual basis to determine the degree to which ~~the prison commitments~~ the program has accomplished the ~~goals~~~~purposes~~ set forth in *subsection (4) of Section 2 of this Act*~~[KRS 196.705]~~. The ~~commission~~~~director~~ shall not renew or continue a program that has failed to accomplish those ~~goals~~~~purposes~~ and that shows no promise of doing so in the future, after allowing for changes in the number of convictions.

Section 7. KRS 196.700 is amended to read as follows:

As used in KRS 196.700 to 196.735, unless the context otherwise requires:

- (1) **"Commission" means the Kentucky State Corrections Commission created in Section 1 of this Act;**
- (2) "Community corrections program" means a local government agency, private nonprofit, or charitable organization within the judicial circuit which shall perform one (1) or more of the following:
 - (a) Prepare community penalties plans;
 - (b) Directly provide, arrange, or contract with public and private agencies for sentencing services for offenders; and
 - (c) Monitor the progress of offenders placed on community penalty plans or who receive sentencing services through provisions of KRS 196.700 to 196.735;~~[-]~~
- ~~(3)(2)~~ "Community corrections programs plan" means a written plan for the development, implementation, operation, and improvement of a community corrections program;~~[-]~~
- ~~(4)(3)~~ "Community penalties plan" means a plan presented in writing to the sentencing judge which provides a detailed description of and rationale for the targeted offender's proposed sentence to a community corrections program or to one (1) or more special programs, conditions of probation, community punishments, or sanctions in lieu of lengthy incarceration;~~[-]~~
- ~~(4) "Director" means the director of the Kentucky State Corrections Commission, who shall be the secretary of the Justice Cabinet, or his designee.~~
- (5) "Judicial circuit" means the circuits prescribed by KRS 23A.020; ~~and~~~~[-]~~
- (6) "Targeted offenders" means persons charged with or convicted of one (1) or more felonies who under application of law are eligible for probation or suspension of sentence or a minimum period of incarceration not to exceed one (1) year.

Section 8. KRS 196.070 is amended to read as follows:

- (1) The commissioner of the Department of Corrections shall:
 - (a) Supervise and administer the Kentucky State Reformatory, the Kentucky Correctional Institution for Women, the Kentucky State Penitentiary, Northpoint Training Center, the Luther Luckett Correctional Complex, the Eastern Kentucky Correctional Complex, the Green River Correctional Complex, the Western Kentucky Correctional Complex, the Roederer Correctional Complex, and any minimum

security correctional institutions established and operated by the department, or any divisions of those institutions, the private prisons as provided by KRS 197.500, and the prison industry program within those institutions.

- (b) Supervise the employment of prisoners who have not been paroled or conditionally released, either within or without the walls or enclosures of these institutions.
 - (c) Have the authority to transfer, with the approval of the secretary of the Finance and Administration Cabinet, appropriated funds from the budget of one (1) penal institution to another.
 - (d) Determine minimum, maximum, and conditional release dates of prisoners in accordance with KRS 197.045.
 - (e) Authorize the transfer of prisoners between institutions.
 - (f) Create those positions and employ those personnel necessary to perform the functions of the department.
 - (g) ***Promulgate administrative regulations in accordance with KRS Chapter 13A to implement KRS 196.700 to 196.735.***
- (2) The commissioner may organize and maintain a training division for employees of the department and others and in connection therewith promulgate administrative regulations covering the course and conduct of the training and the period of time for which any employee or applicant therefor shall attend the school.
- (a) The Division of Corrections Training shall establish, supervise, and coordinate training programs and schools for corrections personnel, jail personnel, and any other justice or nonlaw-enforcement related personnel as prescribed by the secretary and shall issue certification to those employees having successfully met the requirements of the training program.
 - (b) The Division of Corrections Training shall make a continuing study of corrections training standards and design, develop, and deliver preservice and in-service training programs.
 - (c) The Division of Corrections Training shall, by administrative regulations, prescribe minimum qualifications for its instructors and shall approve, issue, or revoke the certification of instructors.

Section 9. KRS 196.010 is amended to read as follows:

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

- (1) ***"Cabinet" means the Justice Cabinet***~~["Secretary" means secretary of the Justice Cabinet];~~
- (2) "Commissioner" means commissioner of the Department of Corrections;
- (3) "Department" means the Department of Corrections;
- (4) "Institution" means any institution under the control of the Department of Corrections; and
- (5) ***"Secretary" means secretary of the Justice Cabinet***~~["Cabinet" means the Justice Cabinet].~~

Section 10. KRS 196.026 is amended to read as follows:

The Department of Corrections shall consist of the following organizational units:

- (1) Office of General Counsel;
- (2) Division of Administrative Services;
- (3) Division of Corrections Training;
- (4) Division of Institutional Operations;
- (5) Division of Mental Health Programs;
- (6) Division of Correctional Industries;
- (7) Division of Medical Services;
- (8) Division of Probation and Parole;
- (9) Division of ***Community Services and*** Local Facilities;
- (10) Division of Personnel Services; and

- (11) Western Region Division and Eastern Region Division, Adult Institutions.

Each state penal correctional institution referenced in KRS 197.010 shall be considered a division for organizational purposes. Each institution shall be headed by a warden pursuant to KRS 196.160.

Section 11. KRS 196.031 is amended to read as follows:

- (1) The cabinet shall employ the personnel and operate and maintain data collection and processing systems necessary to comply with the provisions of this section.
- (2) The cabinet shall annually on July 1 of each year report to the Governor, the Legislative Research Commission, and the Kentucky State Corrections Commission on:
 - (a) The placement of prisoners within the Commonwealth's correctional system by institution, whether imprisoned in a state prison or other institution, including county jails, on probation, paroled, housed in halfway houses, sentenced to community service or otherwise;
 - (b) Numbers of prisoners by type of offense;
 - (c) Numbers of prisoners by number and type of prior convictions;
 - (d) Numbers of prisoners paroled by type of offense and by length of time served;
 - (e) Numbers of prisoners released through shock probation by type of offense and by length of time served; and
 - (f) Numbers of prisoners serving their full sentence by type of offense.
- (3) The cabinet shall annually report to the Governor and to the Legislative Research Commission on:
 - (a) Numbers and types of prison beds necessary to meet current population needs and six (6) year projections of ~~those~~^{the} needs ~~based on the methodology developed and approved by the State Corrections Commission~~;
 - (b) Current personnel needs of the cabinet and five (5) year projections of the needs; and
 - (c) A six (6) year projection of needed capital construction, program development, and anticipated requests for appropriations.

Section 12. The General Assembly confirms Executive Order 2002-1068, dated September 12, 2002, to the extent that it is not otherwise confirmed or superseded by this Act.

Approved March 18, 2003

CHAPTER 72

(SB 81)

AN ACT relating to pesticide use and application.

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

Section 1. KRS 217B.170 is amended to read as follows:

- (1) The department shall require an annual fee of ten dollars (\$10) for each aircraft to be registered and a fee of ten dollars (\$10) for each piece of ground equipment to be registered, in the business of applying pesticides to the lands of another within this state.
 - (a) ***The requirements of this subsection shall not apply to handheld or backpack sprayers and ground-driven equipment that is propelled by hand.***
 - (b) Should any equipment fail to pass inspection under KRS 217B.160, the department shall, pending inquiry and reinspection, suspend or revoke the registration. In addition to the required inspection, unannounced inspections may be made without charge to determine if equipment is properly calibrated and maintained in conformance with applicable laws and administrative regulations.

- (2) All registered equipment shall be identified by a license plate or decal furnished by the department, and shall be affixed in a location and manner upon the equipment as prescribed by the department.

Approved March 18, 2003

CHAPTER 73

(SB 91)

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 154.24-090 is amended to read as follows:

The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A, regarding the approval of eligible companies and economic development projects conducted by those companies. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the following criteria:

- (1) A determination by the authority that more than seventy-five percent (75%) of services provided by the eligible company from the proposed project shall be provided for persons located outside the Commonwealth during each year of the period during which it receives inducements as authorized in KRS 154.24-110;
- (2) The economic development project shall result in the creation by the eligible company of a minimum of fifteen (15) new full-time jobs for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth at the activation date *set forth in the company's service and technology agreement as described in Section 2 of this Act. The activation date*~~[which]~~ shall occur within *two (2) years after*~~one (1) year of~~ the date of the final resolution authorizing the economic development project. The authority may extend *the*~~this one (1) year~~ period *for compliance with this subsection up to one (1) year from the activation date* upon the written application of an eligible company requesting an extension;
- (3)
 - (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:
 1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or
 2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.
 - (b) If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. In addition to the base hourly wages, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wages; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wages, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wages through increased hourly wages combined with employee benefits;
- (4) Written evidence that:
 - (a) Approval of the economic development project and the resulting inducements to be offered are essential to the creation of new jobs in the Commonwealth by an eligible company in connection with its economic development project; and
 - (b) No significant number of existing jobs in the Commonwealth will be lost, or adversely affected, due to the designation of an eligible company as an approved company, and to the approval of the eligible company's economic development project; and

- (5) That the economic development project could reasonably and efficiently locate outside of the Commonwealth and, without the inducements offered by the authority, the eligible company would likely locate outside the state.

Section 2. KRS 154.24-120 is amended to read as follows:

Before any approved company is granted inducements as prescribed in KRS 154.24-010 to 154.24-150, a service and technology agreement with respect to the company's economic development project shall be entered into between the authority and the approved company. The terms and provisions of the agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

- (1) The term of an agreement shall not be longer than ten (10) years from the activation date established by the approved company. The activation date shall be any time within ~~two (2) years~~ ~~a one (1) year period~~ after the date of final approval of the agreement by the authority. In order to implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, the employees, and the affected local jurisdictions, if any, of the activation date on which implementation of the inducements authorized in the agreement shall occur.
- (2) The agreement shall include:
 - (a) A description of the authorized inducements to be used by the approved company;
 - (b) A provision that, if the total number of full-time employees at the site of the economic development project who are residents of the Commonwealth and subject to the Kentucky income tax is less than fifteen (15), or in the case of an existing Kentucky business the approved company fails to maintain the increase of at least fifteen (15) full-time employees who are residents of the Commonwealth and subject to the Kentucky income tax, the authorized inducements shall be suspended until the number of full-time employees at the site of the economic development project who are residents of the Commonwealth and subject to the Kentucky income tax equals or exceeds fifteen (15); or in the case of an existing Kentucky business until the maintenance requirement of subsection (4) of KRS 154.24-140 is satisfied;
 - (c) A provision that, if seventy-five percent (75%) or less of services provided by the approved company from the economic development project should be provided to persons located outside of the Commonwealth during any fiscal year of the approved company as prescribed in KRS 154.24-090, the authorized inducements shall be suspended until the percentage of these services again exceeds seventy-five percent (75%) for a full fiscal year of the approved company; and
 - (d) A provision that neither income tax credits nor assessments are assignable without written consent by the authority.

Section 3. KRS 148.851 is amended to read as follows:

As used in KRS 139.536 and KRS 148.851 to 148.860, unless the context clearly indicates otherwise:

- (1) "Agreement" means a tourism attraction agreement entered into, pursuant to KRS 148.859, on behalf of the authority and an approved company, 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 KRS 148.859 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 Development Finance Authority as set forth in KRS 148.850;
 - (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 KRS 148.855. 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 KRS 148.851 to 148.860;
 - (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 KRS 148.851 to 148.860;
 - (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) ***"Theme restaurant destination attraction" means a restaurant facility that has:***
 - (a) ***Construction, equipment, and furnishing costs in excess of five million dollars (\$5,000,000);***
 - (b) ***Seating capacity of four hundred fifty (450) guests, of which an annual average of not less than fifty percent (50%) shall be guests who are not residents of the Commonwealth;***
 - (c) ***Business plans that indicate that the attraction shall be in operation and open to the public no less than three hundred (300) days per year and for no less than eight (8) hours per day;***
 - (d) ***Business plans that indicate that the attraction shall offer live music or live musical and theatrical entertainment during the peak business hours that the facility is in operation and open to the public, and shall offer a unique dining and cultural experience that is not available elsewhere in the Commonwealth; and***
 - (e) ***Food and nonalcoholic drink options that constitute a minimum of fifty percent (50%) of total gross sales receipts;***
 - (13) "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, ***a theme restaurant destination attraction***, 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;
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; or
3. The facilities involve the reconstruction, restoration, rehabilitation, or upgrade of a full-service lodging facility having not less than five hundred (500) guest rooms, with reconstruction, restoration, rehabilitation, or upgrade costs exceeding ten million dollars (\$10,000,000).

(b) Facilities that are primarily devoted to the retail sale of goods, other than an entertainment destination center, ***a theme restaurant destination attraction***, 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

~~(14)~~~~(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 4. KRS 148.855 is 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 KRS 148.857(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), ***except for a theme restaurant destination attraction's project cost, which shall exceed five million dollars (\$5,000,000)***, 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, *except for a theme restaurant destination attraction, which shall attract a minimum of fifty percent (50%) 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), *except for a theme restaurant destination attraction, which shall have costs in excess of five million dollars (\$5,000,000);*
 - (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, *except for a theme restaurant destination attraction, which shall be operating and open to the public for a minimum of three hundred (300) days per year;* and
 - (e) Shall not adversely affect existing employment in the Commonwealth.
- (5) *The independent consulting firm shall consult with the authority, the Office of the State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet in the development of a report on the proposed tourism attraction project. The Office of the State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall agree as to the methodology to be used and assumptions to be made by the independent consultant in preparing its report. On the basis of the independent consultant's report and prior to any approval of a project by the authority, the Office of the State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall certify to the authority whether there is a projected net positive economic impact to the Commonwealth and the expected amount of incremental state revenues from the project. Approval shall not be granted if it is determined that there is no projected net positive economic impact to the Commonwealth.*
- (6) 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.
- ~~(7)(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 148.859 is 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. *Any increase in approved costs incurred by the approved company and agreed to by the authority shall apply retroactively for purposes of calculating the carry forward for unused inducements as set forth in KRS 139.536(3) for tax years commencing on or after July 1, 2004;*
 - (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 ***original*** 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. ***An extension of the original completion date shall not alter the commencement date of the term;***
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 KRS 148.851 to 148.860. 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, ***except for a theme restaurant destination attraction, which shall attract a minimum of fifty percent (50%) 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; ***and***

(d) ***Upon request from an approved company that has completed at least fifty percent (50%) of an entertainment destination center, the authority shall grant an extension of up to three (3) years to the completion date specified in the agreement of the approved company, in addition to the extension provided for in paragraph (b) of this subsection. In no event shall the completion date be more than six (6) years from the date of final approval. The extension provided for in this paragraph shall be subject to the following conditions:***

1. ***The approved company shall have spent or have contractually obligated to spend an amount equal to or greater than the amount of approved costs set forth in the initial agreement;***
2. ***The term of the agreement shall not be extended; and***
3. ***The scope of the entertainment destination center, as set forth in the initial agreement, shall not be altered to include new or additional entertainment and leisure options.***

(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 KRS 148.851 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 148.851 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 KRS 148.851.

Section 6. Whereas financial markets and interest rates for commercial loans are increasingly unstable, 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 18, 2003

CHAPTER 74**(SB 92)**

AN ACT relating to special license plates.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "Friends of the Zoo" means a corporation that is located in a county containing a consolidated local government organized under KRS Chapter 67C and is:*
 - (a) *Exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and*
 - (b) *Incorporated to support the zoological, botanical, and cultural interests, activities, and education that are an integral part of the mission of a zoo located in a county containing a consolidated local government organized under KRS Chapter 67C.*
- (2) *The owner or lessee of a motor vehicle registered under the provisions of KRS 186.050(1) or (3)(a) may apply for a special Louisville Zoo license plate in the office of the county clerk in the county where the person lives. The first nine hundred (900) persons to apply for a special Louisville Zoo license plate shall include with the application the state fee established in subsection (3) of this section and a three dollar (\$3) county clerk fee. After the first nine hundred (900) persons apply for the special plate, each application shall be accompanied by the fee established in subsection (4) of this section. The county clerk shall inform the first nine hundred (900) applicants that the application and state fee shall be sent to the Transportation Cabinet in Frankfort where they shall be held for a period not to exceed one (1) year while the cabinet is waiting to receive sufficient applications subject to the provisions of subsection (3) of this section. Until the Louisville Zoo license plate is actually printed, the cabinet shall issue to each county clerk a monthly status report on the number of persons that have applied for the special plate, to enable the clerk to determine the appropriate application fee.*
- (3) *If the Transportation Cabinet receives a minimum of nine hundred (900) applications accompanied by a fifty dollar (\$50) state fee within one (1) year from the date the cabinet receives the first application for the special plate, the cabinet shall begin designing and printing special Louisville Zoo license plates. The purpose of the fifty dollar (\$50) state fee is to offset computer programming costs incurred by the cabinet. If the cabinet does not receive nine hundred (900) applications within one (1) year from the date the cabinet receives the first application for a special Louisville Zoo license plate, the cabinet shall refund the fifty dollar (\$50) state fee to the appropriate applicant and this section shall expire and be automatically repealed.*
- (4) *After the minimum number of requests required under subsection (3) of this section has been achieved and the cabinet has printed the Louisville Zoo license plate, each initial applicant for the special plate, and each applicant applying to renew the special plate, shall pay a state fee of twelve dollars (\$12) that includes the fee to reflectorize the license plate under KRS 186.240, and a county clerk fee of three dollars (\$3). An applicant may also make a voluntary contribution of twelve dollars (\$12) that the county clerk shall remit quarterly to the Friends of the Zoo, or its successor agency, to be used as established in subsection (9) of this section.*
- (5) *A special Louisville Zoo license plate shall be a five (5) year plate and shall annually be issued a renewal registration decal during the owner's or lessee's birthmonth.*
- (6) *A special Louisville Zoo license plate shall be replaced free of charge if the metal plate is destroyed in an accident, deteriorates to a point that the lettering, numbering, or images on the face of the plate are not legible, or the plate is stolen, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.*
- (7) *A person seeking a special Louisville Zoo license plate for a vehicle provided as part of the person's occupation shall conform to the requirements of KRS 186.050(14).*
- (8) *Upon the sale, transfer, or termination of a lease of a vehicle licensed under this section, the owner or lessee shall remove the special Louisville Zoo license plate and return it and the certificate of registration to the county clerk. The county clerk shall reissue the owner or lessee a regular license plate and certificate of registration upon payment of a three dollar (\$3) county clerk fee. If the owner or lessee requests, the county*

clerk shall reissue the special Louisville Zoo license plate free of charge for use on any other vehicle of the same classification and category owned by the person during the current licensing period. If the owner or lessee has the special Louisville Zoo license plate reissued to another vehicle, the regular license plate that is being replaced shall be returned to the county clerk who shall forward the plate to the Transportation Cabinet.

- (9) *All funds received by the Friends of the Zoo under subsection (4) of this section shall be deposited into a separate account that shall be audited yearly at the expense of the Friends of the Zoo. The completed audit shall be forwarded to the Transportation Cabinet in Frankfort. Money in the account shall be used for public programs not limited to Friends of the Zoo or Louisville Zoo members that promote zoological, botanical, and cultural interests, activities, and education that are an integral part of the mission of all zoos.*
- (10) *The name "Kentucky" shall appear on the Louisville Zoo license plate and the cabinet may use any combination of letters or numerals as needed in the design. Subject to any other necessary limitations imposed by the Transportation Cabinet, special Louisville Zoo license plates shall be the color and design developed by the Friends of the Zoo.*

Section 2. KRS 186.186 is amended to read as follows:

- (1) Any person may apply for a special license plate authorized in KRS 186.186 to 186.1867 by complying with the provisions of KRS 186.186 to 186.1867 and by complying with the following provisions:
 - (a) A person shall apply for one of the special license plates authorized in KRS 186.186 to 186.1867 in the office of the county clerk in the county where the person lives; and
 - (b) A person shall include with the application for a special license plate a twenty-five dollar (\$25) deposit toward an initial state fee and a county clerk's fee of three dollars (\$3). If, within one (1) year, the cabinet has received less than eighteen hundred (1800) requests for a special license plate then a twenty-five dollar (\$25) balance shall be due on the initial fee deposit. If eighteen hundred (1800) or more requests are received within one (1) year then the initial twenty-five dollar (\$25) deposit shall constitute the initial state fee.
- (2) A special license plate issued pursuant to KRS 186.186 to 186.1867 shall be issued a renewal registration decal annually during the applicant's birthmonth. The annual renewal fee shall be a twelve dollar (\$12) state fee that includes the state fee to reflectorize the license plate pursuant to KRS 186.240(2)(c) and a three dollar (\$3) county clerk fee. The special license plate shall be replaced on the same schedule as regular license plates are replaced by the Transportation Cabinet pursuant to KRS Chapter 186.240.
- (3) A county clerk shall forward all state fee money collected pursuant to this section to the Transportation Cabinet monthly. The cabinet shall establish a separate trust and agency account for each special license plate authorized by KRS 186.186 to 186.1867 and shall deposit fees received for each special license plate into the appropriate trust and agency account or the state road fund according to the provisions of this subsection. The cabinet shall deposit the fifty dollar (\$50) state fee received from the first nine hundred (900) applications or the twenty-five dollar (\$25) state fee received from the first eighteen hundred (1800) applications for each special license plate authorized by KRS 186.186 to 186.1867 into the appropriate trust and agency account and dedicate those funds to off-set the cabinet's administrative costs for computer programming of each special license plate. ~~Except as provided in KRS 186.1863 and 186.1864,~~ The cabinet shall deposit the fifty dollar (\$50) state fee received pursuant to this subsection in excess of nine hundred (900) applications into the state road fund and the twenty-five dollar (\$25) state fee received pursuant to this subsection in excess of eighteen hundred (1800) applications into the state road fund. The cabinet may hold the money in each trust and agency account for a period not to exceed one (1) year from the date of the first deposit received for each category of special license plate. Unless the cabinet is requested in writing to the contrary, if the cabinet has not received nine hundred (900) applications accompanied by the twenty-five dollar (\$25) deposit within one (1) year, the cabinet shall refund all deposit money received for the special license plate to the appropriate applicants. If the cabinet receives a minimum of nine hundred (900) applications with the twenty-five dollar (\$25) deposit for a special license plate within one (1) year, the cabinet shall begin printing the requested special license plate.
- (4) Upon the sale, transfer, or termination of a lease of a vehicle licensed pursuant to KRS 186.186 to 186.1867, the owner or lessee shall remove the special license plate and return it and the certificate of registration to the county clerk. The county clerk shall reissue the person a regular license plate and certificate of registration upon payment of a twelve dollar (\$12) state fee that includes the state fee to reflectorize the license plate

pursuant to KRS 186.240(2)(c) and a three dollar (\$3) county clerk fee. If the person requests, the county clerk shall reissue the special license plate for use on any other vehicle of the same classification and category owned by the person who purchased the special license plate during the current licensing period free of charge. If the county clerk reissues a special license plate pursuant to this subsection, the regular license plate it replaces shall be returned to the county clerk who shall forward the plate to Frankfort.

- (5) If a special license plate deteriorates and if the owner has not transferred the vehicle during the current licensing period, the owner may obtain a new special license plate free of charge.
- (6) A person seeking a special license plate for a vehicle provided pursuant to an occupation shall conform to the requirements of KRS 186.050(14).
- (7) The secretary of the Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to administer the provisions of KRS 186.186 to 186.1867.

Section 3. The following KRS sections are repealed:

- 186.1725 Special license plate for active or retired professional firefighters.
- 186.1726 Special license plate for Knights of Columbus.
- 186.1727 Application for special license plate for active or retired professional firefighters and Knights of Columbus -- Fees -- Disposition of funds received.
- 186.1733 Special license plate for member or veteran of the Marine Corps League.
- 186.1765 Special agricultural license plates.
- 186.1775 Special YMCA license plates.
- 186.1862 Special license plates for nurses.
- 186.1863 Special license plates for United States Olympic Committee.
- 186.1864 Special license plates for youth soccer.
- 186.1866 Special license plates for members or retired members of unions.
- 186.1869 Special license plates for members of National Wild Turkey Federation.

Approved March 18, 2003

CHAPTER 75

(SB 93)

AN ACT relating to coal severance tax projects, declaring an emergency, and making an appropriation therefor.

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

Section 1. Notwithstanding KRS 42.4588(2) and (4), the following projects are authorized and appropriated from Local Government Economic Development Fund moneys from the single county fund pursuant to KRS 42.4592 in the following coal-producing county in the manner enumerated. These projects are determined by the General Assembly to be important to the furtherance of the public policy objectives and economic development purposes for which the Local Government Economic Development Program was established. The amounts appropriated are estimates. Actual expenditures and encumbrances shall be limited to the actual receipts realized and available in the respective single county fund. These amounts are comprised of estimated receipts for fiscal year 2002-2003 in combination with prior unobligated balances in the respective single county funds. To the extent that a county that is authorized to proceed with a project enumerated below receives more single county Local Government Economic Development Fund moneys than are appropriated in this Act, the county may direct those funds to offset a cost overrun on any of the projects enumerated below upon approval of the Commissioner of the Coal County Development Office.

Section 2. Budget Unit Local Government
Carter County

2002-03

- | | | |
|-----|---|----------|
| (1) | Carter County Fair Board - Property Acquisition for Permanent Fair Location | |
| | Restricted Funds | \$25,000 |
| (2) | Carter County School System - Soccer Fields Property Acquisition | |
| | Restricted Funds | \$25,000 |
| (3) | City of Grayson - City Pool Repair and Maintenance/Operations | |
| | Restricted Funds | \$25,000 |
| (4) | Grahn Community Center Productions Allowance | |
| | Restricted Funds | \$10,000 |
| (5) | Grayson Little League Grounds | |
| | Restricted Funds | \$5,000 |
| (6) | Olive Hill Little League | |
| | Restricted Funds | \$5,000 |
| (7) | Someday Outdoor Drama Production Allowance | |
| | Restricted Funds | \$5,000 |

Section 3. Whereas the Commonwealth is nine (9) months into fiscal year 2002-2003, 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 18, 2003

CHAPTER 76

(SB 94)

AN ACT relating to abuse of public trust.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 522 IS CREATED TO READ AS FOLLOWS:

- (1) *A public servant who is entrusted with public money or property by reason of holding public office or employment, exercising the functions of a public officer or employee, or participating in performing a governmental function, is guilty of abuse of public trust when:*
 - (a) *He or she obtains public money or property subject to a known legal obligation to make specified payment or other disposition, whether from the public money or property or its proceeds; and*
 - (b) *He or she intentionally deals with the public money or property as his or her own and fails to make the required payment or disposition.*
- (2) *A public servant is presumed:*
 - (a) *To know any legal obligation relative to his or her criminal liability under this section; and*
 - (b) *To have dealt with the public money or property as his or her own when:*
 1. *He or she fails to account upon lawful demand; or*
 2. *An audit reveals a shortage or falsification of accounts.*
- (3) *Abuse of public trust is:*
 - (a) *A Class D felony if the value of the public money or property is less than ten thousand dollars (\$10,000);*
 - (b) *A Class C felony if the value of the public money or property is ten thousand dollars (\$10,000) or more, but less than one hundred thousand dollars (\$100,000); and*

- (c) *A Class B felony if the value of the public money or property is one hundred thousand dollars (\$100,000) or more.*
- (4) *The judgment of conviction under this section shall recite that the offender is disqualified to hold any public office thereafter.*
- (5) *Conduct serving as the basis for the conviction of a public servant under this section shall not also be used to obtain a conviction of the public servant under KRS 514.070.*

Section 2. KRS 514.070 is amended to read as follows:

- (1) A person is guilty of theft by failure to make required disposition of property received when:
 - (a) He obtains property upon agreement or subject to a known legal obligation to make specified payment or other disposition whether from such property or its proceeds or from his own property to be reserved in equivalent amount; and
 - (b) He intentionally deals with the property as his own and fails to make the required payment or disposition.
- (2) The provisions of subsection (1) apply notwithstanding that it may be impossible to identify particular property as belonging to the victim at the time of the actor's failure to make the required payment or disposition.
- (3) An officer or employee of the government or of a financial institution is presumed:
 - (a) To know any legal obligation relevant to his criminal liability under this section; and
 - (b) To have dealt with the property as his own when:
 - 1. He fails to account or pay upon lawful demand; or
 - 2. An audit reveals a shortage or falsification of accounts.
- (4) Theft by failure to make required disposition of property received is a Class A misdemeanor unless the value of the property is three hundred dollars (\$300) or more, in which case it is a Class D felony.
- (5) *No person shall be convicted of theft by failure to make required disposition of property received when he or she has also been convicted of a violation of Section 1 of this Act arising out of the same incident.*

Section 3. The following KRS section is repealed:

61.190 Receiving profit on public funds -- Penalty.

Approved March 18, 2003

CHAPTER 77

(SB 109)

AN ACT relating to boilers.

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

Section 1. KRS 236.060 is amended to read as follows:

- (1) KRS 236.005 to 236.150 shall not apply to boilers or pressure vessels or related piping under federal control.
- (2) KRS 236.005 to 236.150 shall not apply to the following boilers or related piping:
 - (a) Boilers or pressure vessels located on farms and used solely for agricultural purposes;
 - (b) Boilers or pressure vessels located at any oil refineries;
 - (c) Boilers or pressure vessels located at any utility operating under a certificate issued pursuant to KRS 278.020, if the boilers or pressure vessels are inspected by a special boiler inspector under the provisions of KRS 236.110, except that the inspection interval provided for in KRS 236.110 shall be extended to eighteen (18) months;

- (d) Steam or vapor boilers used for heating purposes carrying a pressure of not more than fifteen (15) pounds per square inch gauge, and which are located in private residences~~[or in apartment houses of less than six (6) families];~~
 - (e) Hot water heating boilers carrying a pressure of not more than thirty (30) pounds per square inch gauge which are located in private residences~~[or in apartment houses of less than six (6) families]~~ or hot water supply boilers which are located in private residences~~[or in apartment houses of less than six (6) families];~~
 - (f) Any unfired pressure vessels used as containers for liquefied petroleum gases and subject to the jurisdiction of the Department of Housing, Buildings and Construction under KRS Chapter 234;
 - (g) Pressure vessels used for transportation of compressed gases if constructed and operated in compliance with specifications and regulations of another state or federal authority;
 - (h) Pressure vessels containing air located on vehicles operating under the regulations of another state or federal authority;
 - (i) Pressure vessels operating at a maximum pressure of fifteen (15) PSI or less;
 - (j) Single wall pressure vessels having an inside diameter of six (6) inches;
 - (k) Pressure vessels with a nominal water containing capacity of one hundred twenty (120) gallons or less, to be used for domestic supply purposes, for containing water under pressure, including those containing air, the compression of which serves only as a cushion;
 - (l) Pressure vessels containing water heated by steam or other indirect means when none of the following are exceeded:
 - 1. Heat input of two hundred thousand (200,000) BTU/Hr.;
 - 2. Water temperature of two hundred ten (210) degrees Fahrenheit;
 - 3. Water storage capacity of one hundred twenty (120) gallons;
 - (m) Coil type hot water boilers without a steam space and where no steam is generated within the confines of the unit but where water flashes into steam when released to atmospheric pressure by the operation of a manually operated nozzle, unless one (1) of the following is exceeded:
 - 1. Three quarter (3/4) inch inside diameter tubing or pipe size with no drum or header attached;
 - 2. Six (6) gallon water containing capacity;
 - 3. Three hundred fifty (350) degrees Fahrenheit water temperature;
 - (n) Water heaters which are directly fired with oil, gas, or electricity, when none of the following limitations are exceeded:
 - 1. Heat input of two hundred thousand (200,000) BTU/Hr.;
 - 2. A water temperature of two hundred ten (210) degrees Fahrenheit;
 - 3. A water containing capacity of one hundred twenty (120) gallons;
 - (o) Pressure vessels which may be classified as:
 - 1. Pressure containers which are integral parts of components of rotating or reciprocating mechanical devices such as pumps, compressors, turbines, generators, engines, and hydraulic or pneumatic cylinders where the primary design considerations or stresses are derived from the functional requirements of the device; or
 - 2. Structures whose primary function is the transport of fluids from one location to another within a system of which it is an integral part, that is, piping system.
- (3) The fees required by KRS 236.120(1) and 236.130 shall not apply to standard and miniature antique and hobby boiler-operated tractors and equipment used solely for exhibition, if the boiler uses a fifty (50) pounds per square inch or less gauge.

Section 2. KRS 236.210 is amended to read as follows:

- (1) No person~~[, except contractor installers of boilers operating at more than five hundred (500) pounds per square inch gauge or at more than four hundred sixty seven (467) degrees Fahrenheit,]~~ shall engage in the business of installing, erecting, or repairing boilers unless he first obtains a license from the commissioner on recommendation of the board.
- (2) Each person, firm or corporation must pass an examination prepared by the board and administered by the department.
- (3) A license shall be issued by the commissioner or the chief boiler inspector upon recommendation of the board and payment of a reasonable fee not to exceed the cost of examination and other expenses involved as established by the commissioner upon advice of the board pursuant to KRS Chapter 13A.
- (4) The license shall be renewable annually, not later than the first of the month following the expiration date, upon payment of a reasonable fee not to exceed the costs involved in such renewal as established by the commissioner upon advice of the board pursuant to KRS Chapter 13A.
- (5) All individuals in the employ of a licensee shall not be required to be licensed.

Approved March 18, 2003

CHAPTER 78

(SB 120)

AN ACT relating to insurance.

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

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The purpose of Sections 1 to 23 of this Act is to establish minimum standards for self-insured employer-organized association groups to assure that such groups are providing adequate coverage for health benefit liability risks.

SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *"Administrator" means an individual, partnership, corporation, association, or other legal entity engaged by a self-insured employer-organized association group's board of trustees to carry out the policies established by the group's board of trustees and to provide day-to-day management of the group.*
- (2) *"Agent" means any person directly or indirectly associated with such organization who engages in solicitation or enrollment of persons for profit or pecuniary gain in a self-insured employer-organized association group.*
- (3) *"Commissioner" means the commissioner of the Department of Insurance.*
- (4) *"Deceptive" means an act, practice, or statement which has the tendency or capacity to deceive, without regard to whether there is an intent to deceive or whether any person has suffered loss or injury as a result of the act, practice, or statement.*
- (5) *"Employer-organized association" means an entity defined in Section 3 of this Act.*
- (6) *"Governmental entity" means the Commonwealth of Kentucky, other states, or the United States, their political subdivisions, municipal corporations, or public agencies.*
- (7) *"Insolvent" or "insolvency" means the inability of a self-insured employer-organized association group to pay its outstanding lawful obligations as they mature in the regular course of business, as may be shown either by an excess of its required reserves and other liabilities over its assets or by its not having sufficient assets to reinsure all of its outstanding liabilities after paying all accrued claims owed by it.*
- (8) *"Person" includes but is not limited to any individual, partnership, association, trust, or corporation.*
- (9) *"Qualified actuary" means a member of the American Academy of Actuaries or a Fellow of the Society of Actuaries.*

- (10) *"Self-insured employer-organized association group" means a group described in Section 3 of this Act.*
- (11) *"Service company" means a person or entity which provides services not provided by the administrator, including but not limited to claims adjustment, compilation of statistics in preparation of contribution and assessments, loss, and tax reports, preparation of other required self-insurance reports, development of members' contributions, assessments, and fees, and administration of a claim fund.*
- (12) *"Unfair" means an act, practice, or statement which is unconscionable.*

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

Sections 1 to 23 of this Act apply to the members of a self-insured employer-organized association group as authorized by KRS 304.17A-320. A self-insured employer-organized association group may be composed of any number of members, who join together to self-insure against health risks for sickness, accident, or bodily injury. This section does not apply to employees' workers' compensation claims which arise from the operation of institutions or other legal entities by members of the group.

SECTION 4. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No person or entity in this state shall be, act as, or hold itself out as a self-insured employer-organized association group unless it holds a certificate of filing from the commissioner. All certificates of filing shall be issued by the commissioner.

SECTION 5. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A proposed self-insured employer-organized association group shall file with the commissioner an application for a certificate of filing accompanied by a nonrefundable filing fee of five dollars (\$5). Each application for a certificate of filing shall be submitted to the commissioner upon a form prescribed by the commissioner and shall set forth or be accompanied by:

- (1) *The group's name, location of its principal office, date of organization, and identification of its fiscal year. The application shall also include the name and address of each member if known at the time of application. If this information is unknown, a description of the group to be solicited for membership shall be included;*
- (2) *A copy of the articles of association or governance documents;*
- (3) *A copy of agreements with the administrator and with any service company;*
- (4) *A copy of the bylaws of the proposed group;*
- (5) *Certification of the group's financial solvency as set forth in Section 7 of this Act;*
- (6) *Designation of the initial board of trustees and administrator; and*
- (7) *The address where books and records of the group will be maintained at all times.*
- (8) *A statement describing the self-insured employer-organized association which shall include:*
 - (a) *The health services to be offered;*
 - (b) *The financial risks to be assumed;*
 - (c) *The initial geographic area to be served;*
 - (d) *Pro forma financial projections for the first three (3) years of operation, including the assumptions the projections are based upon;*
 - (e) *The sources of working capital and funding;*
 - (f) *A description of the persons to be covered by the self-insured employer-organized association;*
 - (g) *Any proposed reinsurance arrangements;*
 - (h) *Any proposed management, administrative, or cost-sharing arrangements; and*

- (i) *A description of the self-insured employer-organized association's proposed method of marketing.*

SECTION 6. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Upon receipt of an application for a certificate of filing, the commissioner shall issue or deny the same. A certificate of filing shall be issued only if the commissioner finds that the applicant has complied with Section 5 of this Act, has paid the application fee, and the commissioner is satisfied that the following conditions are met:

- (1) *The persons responsible for the conduct of the affairs of the self-insured employer-organized association group are competent, trustworthy, and possess good reputation;*
- (2) *The self-insured employer-organized association group is financially responsible and may reasonably be expected to meet its obligations to participants and prospective participants. In making this determination, the commissioner may consider:*
 - (a) *The adequacy of working capital;*
 - (b) *Any agreement with an insurer, a government, or any other organization for insuring the payment of health claims or the provision for automatic applicability of an alternative coverage in the event of discontinuance of the self-insurance group; and*
 - (c) *Compliance with Section 7 of this Act, as a guarantee that the obligations will be duly performed.*

SECTION 7. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *This section applies to a group applying for and holding a certificate of filing as a self-insured employer-organized association group.*
- (2) *To obtain and to maintain its certificate of filing, a self-insured employer-organized association group shall have sufficient financial strength to pay all public or professional liabilities covered by the group, including known claims and expenses and incurred but unreported claims and expenses.*
- (3) *The commissioner shall require the following of a self-insured employer-organized association group:*
 - (a) *An actuarial certification by a member of the American Academy of Actuaries of the adequacy of the proposed rates funding arrangements of the group;*
 - (b) *Specific reinsurance ensuring the solvency of the funding arrangement;*
 - (c) *A demonstration of capital and surplus as follows:*
 1. *Initial financial requirements. Every self-insured employer-organized association shall demonstrate initial capital and surplus equal to the greater of:*
 - a. *Five hundred thousand dollars (\$500,000);*
 - b. *Two percent (2%) of projected annual contribution revenues on the first one hundred fifty million dollars (\$150,000,000) of contributions and one percent (1%) of projected annual contributions on the contributions in excess of one hundred fifty million dollars (\$150,000,000); or*
 - c. *An amount equal to the sum of eight percent (8%) of projected annual health care expenditures except those paid on a capitated basis or managed hospital payment basis and four percent (4%) of projected annual hospital expenditures paid on a managed hospital payment basis.*
 2. *Continuing financial requirements. Every self-insured employer-organized association shall demonstrate ongoing capital and surplus equal to the greater of:*
 - a. *Five hundred thousand dollars (\$500,000);*
 - b. *Two percent (2%) of annual contribution revenues, as reported on the most recent annual financial statement filed with the commissioner, on the first one hundred fifty million dollars (\$150,000,000) of contributions and one percent (1%) of annual premiums on the contributions in excess of one hundred fifty million dollars (\$150,000,000); or*

- c. *An amount equal to the sum of eight percent (8%) of projected annual health care expenditures except those paid on a capitated basis or managed hospital payment basis and four percent (4%) of annual hospital expenditures paid on a managed hospital payment basis, as reported on the most recent financial statement filed with the commissioner; and*
- (d) *A fidelity bond for the administrator and a fidelity bond for the service company in forms and amounts prescribed by the commissioner.*
- (4) *The commissioner, if not satisfied with the financial strength of a self-insured employer-organized association group, may require any or all of the following of a self-insured employer-organized association group:*
 - (a) *Security in the form and amount prescribed by the commissioner as follows:*
 - 1. *A surety bond issued by a corporate surety authorized to transact business in the Commonwealth of Kentucky; or*
 - 2. *Any financial security endorsement issued as part of an acceptable excess insurance contract issued by an authorized insurer, which may be used to meet all or part of the security requirement.*

The bond or financial security endorsement shall be solely for the benefit of the insured creditors to pay claims and associated expenses and shall be payable upon the failure of the group to pay professional or public liability claims the group is legally obligated to pay. The commissioner may establish and adjust the requirements for the amount of security based on differences among groups in their size, types of business, years in existence, or other relevant factors.
 - (b) *Specific and aggregate excess insurance in a form and amount issued by an insurer acceptable to the commissioner.*

SECTION 8. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A self-insured employer-organized association group shall notify the commissioner immediately of any change in the information required to be filed under Section 5 or Section 7 of this Act.

SECTION 9. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The funds of a self-insured employer-organized association group shall be invested only in securities or other investments permitted by Subtitle 7 of this chapter, or such other securities or investments as the commissioner may permit by administrative regulation.

SECTION 10. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *An agent of a self-insured employer-organized association group shall be licensed as an agent with the life and health lines of authority in accordance with Subtitle 9 of this chapter regulating all aspects of agent licenses.*
- (2) *Subsection (1) of this section includes the requirement that the agent shall satisfactorily complete the continuing education requirements in accordance with KRS 304.9-295.*
- (3) *An agent of a self-insured employer-organized association group shall be appointed by the self-insured employer-organized association group in accordance with the provisions of Subtitle 9 of this chapter regulating all aspects of agent appointments.*

SECTION 11. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner or any person authorized by him shall have the power to examine the financial condition, affairs, and management of any self-insured employer-organized association group subject to the provisions of Sections 1 to 23 of this Act. The commissioner shall have free access to all the books, papers, and documents relating to the business of the organization, and may summon witnesses and administer oaths and affirmations in

the examination of the directors, trustees, officers, agents, representatives, or employees of any group, or any person in relation to its affairs, transactions, or conditions. The commissioner shall so examine each self-insured employer-organized association group subject to the provisions of Sections 1 to 23 of this Act no less frequently than every four (4) years. An examination under this section shall be subject to the provisions of KRS 304.2-210 to 304.2-290.

SECTION 12. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any self-insured employer-organized association group holding a certificate of filing pursuant to Sections 1 to 23 of this Act is deemed to have appointed the Secretary of State as its attorney to receive service of legal process issued against it in Kentucky. This appointment shall be irrevocable, shall bind any successor in interest, and shall remain in effect as long as there are in this state any health liabilities.

SECTION 13. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *A certificate of filing remains in effect until terminated at the request of the group or suspended or revoked by the commissioner pursuant to Section 21 of this Act.*
- (2) *The commissioner shall not grant the request of the self-insured employer-organized association group to terminate its certificate of filing unless the group has filed with the commissioner a statement describing what arrangements, if any, have been made to pay obligations of the group, including both known claims and expenses and incurred but unreported claims and expenses.*
- (3) *Subject to filing with the commissioner, a self-insured employer-organized association group may merge with another self-insured employer-organized association group. As a result of any merger, the resulting self-insured employer-organized association shall assume in full all obligations of the constituent groups.*

SECTION 14. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *Each group shall be operated by a board of trustees which shall consist of not less than two (2) persons selected in the manner prescribed by the self-insured employer-organized association or by other laws of the Commonwealth. The trustees shall not be officers, employees, or agents of an administrator or servicing organization. All trustees shall be residents of Kentucky or officers of corporations authorized to do business in Kentucky. The trustees shall have the authority to administer the operations of the self-insured employer-organized association group, and to assure that there is adequate funding to cover health liabilities, that all claims are paid promptly, and that all necessary precautions are taken to safeguard the assets of the group.*
- (2) *The board of trustees shall:*
 - (a) *Maintain responsibility for all moneys collected or disbursed from the group;*
 - (b) *Maintain minutes of its meetings and make the minutes available to the commissioner; and*
 - (c) *Designate an administrator to carry out the policies established by the board of trustees and to provide day-to-day management of the group, and delineate in the written minutes of its meetings the areas of authority it delegates to the administrator.*
- (3) *The board of trustees shall not:*
 - (a) *Extend credit to individual group members for payment of contributions or assessments, except pursuant to payment plans filed with the commissioner; or*
 - (b) *Permit the loan of any moneys to, or borrow any moneys from, the group or in the name of the group.*
- (4) *In its discretion, the self-insured employer-organized association group may refer to its trustees as directors. If this is done, the provisions of Sections 1 to 23 of this Act referring to trustees shall be construed as referring to directors.*

SECTION 15. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *An employer joining a self-insured employer-organized association group after the group has been issued a certificate of filing shall submit an application for membership to the board of trustees or its administrator. Membership shall take effect no earlier than each member's date of application. The application for membership and its approval shall be maintained as permanent records of the board of trustees.*
- (2) *Individual members of a self-insured employer-organized association group shall be subject to cancellation by the group pursuant to the governance documents of the group. In addition, individual group members may elect to terminate their participation in the group.*
- (3) *A self-insured employer-organized association shall pay all health liabilities which are covered under the terms, conditions, and exclusions of the group's evidence of coverage which each member elects during its period of membership. A member who elects to terminate its membership or is canceled by a group remains liable for contribution obligations which were incurred during the canceled or terminated group members' period of membership. A group member is not relieved of its health liabilities incurred during its period of membership in a self-insured employer-organized association group except through payment of its contribution obligations to the group.*
- (4) *The insolvency or bankruptcy of a group member does not relieve the self-insured employer-organized association group of liability for the payment of health liabilities which are covered under the terms, conditions, and exclusions of the group's evidence of coverage and incurred during the insolvent or bankrupt group member's period of membership.*

SECTION 16. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No trustee of a self-insured employer-organized association group nor any of its employees, officers, or directors shall be an employee, officer, or director of, or have either a direct or indirect interest in, an administrator. No administrator nor any of its employees, officers, or directors shall be a trustee, employee, officer, or director of, or have either a direct or indirect financial interest in, a self-insured employer-organized association group.

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

- (1) *All self-insured employer-organized association groups shall file with the commissioner a statement of financial condition audited by an independent certified public accountant on or before one hundred twenty (120) days from the end of the group's fiscal year for the immediately preceding fiscal year. The financial statement shall be in a form approved by the commissioner and shall include:*
 - (a) *Actuarially-appropriate reserves for:*
 1. *Known claims and expenses associated therewith.*
 2. *Claims incurred but not reported and any expenses associated therewith.*
 3. *Unearned contributions and assessments.*
 4. *Bad debts, which reserves shall be known as liabilities.*
 - (b) *An actuarial opinion by a qualified actuary and a supporting reserve study regarding reserves for known claims and expenses associated therewith. The reserve study shall include documentation sufficient for another actuary practicing in the same field to evaluate the work. The documentation shall describe clearly the sources of data, material assumptions, and methods.*
- (2) *No person shall make a deceptive statement or fail to correct a misstatement in connection with the solicitation of membership of a group.*
- (3) *The financial statements required by this section shall be completed in accordance with administrative regulations promulgated by the commissioner.*

SECTION 18. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Self-insured employer-organized association groups shall file with the commissioner their rates, underwriting guidelines, evidence of coverage, and any changes therein. The filing shall be accompanied by a filing fee of five dollars (\$5) per form filing.

SECTION 19. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Self-insured employer-organized association groups shall establish contribution plans.

SECTION 20. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *Every member of a self-insured employer-organized association group shall receive written evidence of coverage by the group.*
- (2) *All evidences of coverage issued pursuant to this section shall contain coverage terms, conditions, and exclusions.*
- (3) *All evidences of coverage issued pursuant to this section shall contain the following disclosure in prominent, contrasting type: THIS COVERAGE HAS BEEN PLACED WITH A SELF-INSURED EMPLOYER-ORGANIZED ASSOCIATION GROUP WHICH HAS RECEIVED A CERTIFICATE OF FILING FROM THE COMMONWEALTH OF KENTUCKY. HEALTH CLAIMS AGAINST GROUP MEMBERS ARE NOT COVERED BY THE KENTUCKY INSURANCE GUARANTY ASSOCIATION.*

SECTION 21. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *The commissioner may suspend or revoke any certificate of filing issued to a self-insured employer-organized association group if the commissioner finds that any of the following conditions exist:*
 - (a) *The self-insured employer-organized association group is operating significantly in contravention of its basic organizational document or in a manner contrary to that described in and reasonably inferred from any other information submitted under Sections 1 to 23 of this Act, unless amendments to the submissions have been filed with and approved by the commissioner;*
 - (b) *The self-insured employer-organized association group is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to participants or prospective participants;*
 - (c) *The self-insured employer-organized association group, or any person at its direction, has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive, or unfair manner;*
 - (d) *The self-insured employer-organized association group has engaged in any unfair or deceptive practices under its certificate of filing; or*
 - (e) *The self-insured employer-organized association group has failed to correct a violation of Sections 1 to 23 of this Act or the administrative regulations promulgated thereunder, within a reasonable time period established by the commissioner in administrative regulations.*
- (2) *A certificate of filing shall be suspended or revoked only after compliance with the hearing procedure set forth in KRS 304.2-310 to 304.2-370.*
- (3) *When a certificate of filing of a self-insured employer-organized association group is suspended, the group shall not, during the period of suspension, enroll any new participants and shall not engage in any advertising or solicitation.*
- (4) *If the certificate of filing of a self-insured employer-organized association group is revoked, the group shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation. The commissioner may, by written order, prevent further operation of the group if he finds it to be in the best interest of the participants, to the end that the participants will be afforded the greatest practical opportunity to obtain health coverage elsewhere. If the commissioner permits further operation, the self-insured employer-organized association group shall continue to collect the contributions required of participants.*

SECTION 22. A NEW SECTION OF KRS CHAPTER 17A IS CREATED TO READ AS FOLLOWS:

The commissioner may promulgate reasonable administrative regulations not inconsistent with the provisions of Sections 1 to 23 of this Act that he deems necessary for the proper administration of these sections. Nothing in Sections 1 to 24 of this Act nor any administrative regulation promulgated thereunder shall require any self-

insured employer-organized association group or its members to take any action in violation of the Constitution of the Commonwealth of Kentucky.

SECTION 23. A NEW SECTION OF KRS CHAPTER 17A IS CREATED TO READ AS FOLLOWS:

- (1) *After a hearing or upon agreement by the self-insured employer-organized association group, the commissioner may suspend or revoke the certificate of filing of a self-insured employer-organized association group, impose a civil penalty of up to five thousand dollars (\$5,000) per violation on a self-insured employer-organized association group, or both, for:*
 - (a) *Violations of Sections 1 to 23 of this Act or administrative regulations promulgated thereunder;*
 - (b) *Obtaining a certificate of filing by unfair or deceptive means;*
 - (c) *Operating in a financially hazardous manner;*
 - (d) *Misappropriation, conversion, illegal withholding, or refusal to pay over upon proper demand any moneys that belong to a member, an employee of a member, or a person otherwise entitled thereto by the group or its administrator; or*
 - (e) *Unfair or deceptive business practices.*
- (2) *The commissioner, in his discretion and without advance notice or a hearing thereon, may suspend or revoke the certificate of filing of any self-insured employer-organized association group upon the commencement of the following proceedings:*
 - (a) *Receivership;*
 - (b) *Conservatorship;*
 - (c) *Rehabilitation; or*
 - (d) *Other delinquency proceedings.*

Section 24. KRS 304.17A-320 is amended to read as follows:

- (1) No employer-organized association shall in this state self-insure in order to provide health benefit plans for its members unless it holds a certificate of filing from the commissioner.
- (2) To qualify for a certificate of filing and to maintain a certificate of filing, the employer-organized association shall comply with the provisions of *Sections 1 to 23* ~~[Subtitle 48]~~ of this Act ~~[chapter]~~ to the extent not in conflict with the expressed provisions of this section.
- (3) Each association that holds a certificate of filing from the commissioner shall be subject to the following:
 - (a) All assessments placed on insurers under KRS 304.17B-021;
 - (b) All rating restrictions placed on employer-organized associations under KRS 304.17A-0954;
 - (c) All rate review requirements placed on insurers under this subtitle;
 - (d) All data collection requirements placed on insurers under this subtitle; and
 - (e) Provisions of Subtitle 12 of this chapter that apply to health insurers.
- (4) Each association that holds a certificate of filing from the commissioner shall notify its members that health benefit plans issued to its members through the association are not protected through the Kentucky Life and Health Insurance Guaranty Association.
- (5) Under the provisions of *Section 21 of this Act* ~~[KRS 304.48-220]~~, the commissioner may revoke the certificate of filing of any association. A violation of any provision of this section shall be deemed a violation of *Sections 1 to 23 of this Act* ~~[Subtitle 48 of this chapter]~~ for purposes of *Section 21 of this Act* ~~[KRS 304.48-220]~~.

Approved March 18, 2003

CHAPTER 79**(SB 123)**

AN ACT relating to sentence credit for state prisoners.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *As used in this section, "Governmental Services Program related project" means a project involving work for:*

 - 1. The Commonwealth or an agency of the Commonwealth; or*
 - 2. A county, urban-county, charter county, city, consolidated local government, special district, or an agency of any of these entities.*

(b) *Work on a Governmental Services Program shall not confer private benefit on a person except as may be incidental to the public benefit.*
- (2) *The department shall promulgate an administrative regulation governing prisoners working on Governmental Services Program related projects.*
- (3) *A prisoner shall not begin work on a particular Governmental Services Program related project without the approval of the director of the relevant entity referred to in subsection (1)(a) of this section, or the director's designee.*
- (4) *Participation in Governmental Services Program related projects shall not be deemed employment for any purpose, and a prisoner shall not be deemed an employee or agent of the entity for which he or she performs the community service work.*
- (5) *A Department of Corrections administrative regulations shall set forth the amount of compensation a prisoner shall earn for any work-related project, and any prisoner who works on a Governmental Services Program shall receive an amount equal to one half of the established compensation for such work and shall be eligible to receive a sentence credit as set forth below.*
- (6) *The sentence credit provisions of this section shall not apply to a prisoner who is serving a:*

 - (a) Sentence of imprisonment for life without possibility of parole;*
 - (b) Sentence for a violent offense as defined in KRS 439.3401;*
 - (c) Sentence for escape or attempted escape; or*
 - (d) Sentence for a sex crime as defined in KRS 17.500.*
- (7) *The department may grant sentence credits to inmates confined in a detention facility for labor performed in a Governmental Services Program or within a detention facility for the maintenance of the facility or for the operation of facility services such as food service.*
- (8) *Credit, if granted, shall be uniform and shall be based on the following:*

 - (a) For every eight (8) full hours of work, one (1) sentence credit shall be earned;*
 - (b) For every five (5) sentence credits earned, one (1) day of the sentence to be served by the inmate shall be deducted; and*
 - (c) Sentence credits shall be deducted from the maximum expiration date of the sentence.*
- (9) *The department may forfeit any credit previously earned by the prisoner or deny the prisoner the right to earn this work credit or the right to earn work credit in any amount if during the term of imprisonment a prisoner commits any offense or violates the rules of the institution.*

- (10) *Any other provision of law to the contrary notwithstanding, the labor of state inmates shall not be used on any construction, building, or building maintenance project outside the prison where use of such labor would reduce skilled employment opportunities of citizens of the Commonwealth. Skilled employment includes but is not limited to labor ordinarily performed by skilled tradespersons.*

Approved March 18, 2003

CHAPTER 80

(SB 133)

AN ACT relating to interlocal cooperation agreements.

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

Section 1. KRS 65.230 is amended to read as follows:

As used in KRS 65.210 to 65.300, unless the context otherwise requires, "public agency" means any political subdivision of this state, any agency of the state government or of the United States, a sheriff, ***any county or independent school district***, and any political subdivision of another state. It also means a state-supported or private institution of higher education and a county or independent public school district for the purposes of entering into a joint agreement to establish and operate a program or facility, including a center for child learning and study, designed to help one (1) or more schools meet any of the goals set forth in KRS 158.6451, or for the investment of funds. If a private institution of higher education proposes to participate in an agreement pursuant to the Interlocal Cooperation Act, the Attorney General shall determine if the proposal is compatible with the United States Constitution, as part of the review of the agreement provided in KRS 65.260(2).

Section 2. The Legislative Research Commission is hereby directed to create the Task Force on Inter-County Cooperation, which shall examine the possibilities available for counties to create interlocal agreements that allow economies of scale and cost savings in the provision of services. The task force shall also examine options available to the Commonwealth to provide incentives for counties to enter into interlocal agreements for the provision of services among counties.

Section 3. The Task Force on Inter-County Cooperation shall be composed of the following fourteen members:

- (1) Two members of the Senate, appointed by the President of the Senate;
- (2) Two members of the House of Representatives, appointed by the Speaker of the House Representatives;
- (3) The commissioner of the Department for Local Government, or the commissioner's designee;
- (4) The secretary of the Transportation Cabinet, or the secretary's designee;
- (5) Two county officials, appointed by the Legislative Research Commission from a list of four nominees submitted by the governing body of the Kentucky Association of Counties;
- (6) Two county judge/executives, appointed by the Legislative Research Commission from a list of four nominees submitted by the governing body of the Kentucky County Judge/Executive Association;
- (7) Two county magistrates, appointed by the Legislative Research Commission from a list of four nominees submitted by the governing body of the Kentucky County Magistrate Association; and
- (8) Two city officials, appointed by the Legislative Research Commission from a list of four nominees submitted by the governing body of the Kentucky League of Cities.

The co-chairs shall be appointed by the Legislative Research Commission. The task force shall examine the possibilities for greater efficiencies and cost savings to counties through the creation of effective interlocal agreements allowing the provision of services across county boundaries. The task force shall examine how the Commonwealth may provide incentives for the creation of these interlocal agreements.

Section 4. The Task Force on Inter-County Cooperation shall report its findings to the Legislative Research Commission no later than August 1, 2003.

Section 5. Provisions of this Act 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 18, 2003

CHAPTER 81

(SB 134)

AN ACT relating to school council members.

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

Section 1. KRS 160.345 is amended to read as follows:

- (1) For the purpose of this section:
 - (a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;
 - (b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:
 1. Exclusively vocational-technical, special education, or preschool programs;
 2. Instructional programs operated in institutions or schools outside of the district; or
 3. Alternative schools designed to provide services to at-risk populations with unique needs;
 - (c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers; and
 - (d) "Parent" means:
 1. A parent, stepparent, or foster parent of a student; or
 2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.
- (2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:
 - (a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;
 - (b)
 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected,

may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal or head teacher shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:
 - a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and
 - b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;
- (c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.
2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;
- (d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;
- (e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;
- (f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;
- (g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;
- (h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with subsection (2)(i)10. of this section. The superintendent may forward to the school council the names of qualified applicants who have pending certification from the Education Professional Standards Board based on recent completion of preparation requirements, out-of-state preparation, or alternative routes to certification pursuant to KRS 161.028 and 161.048. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. When a vacancy in the school principalship occurs, the school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes

the hiring process. Applicants subsequently employed shall provide evidence that they are certified prior to assuming the duties of a position in accordance with KRS 161.020. The superintendent shall provide additional applicants upon request when qualified applicants are available;

- (i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:
 1. Determination of curriculum, including needs assessment and curriculum development;
 2. Assignment of all instructional and noninstructional staff time;
 3. Assignment of students to classes and programs within the school;
 4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
 5. Determination of use of school space during the school day;
 6. Planning and resolution of issues regarding instructional practices;
 7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
 8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;
 9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and
 10. Procedures to assist the council with consultation in the selection of personnel by the principal, including, but not limited to, meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; and
 - (j) Each school council shall annually review data on its students' performance as shown by the Commonwealth Accountability Testing System. The data shall include but not be limited to information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council, with the involvement of parents, faculty, and staff, shall develop and adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b) by April of each year and submit the plan to the superintendent and local board of education for review as described in KRS 160.340. The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than November 1 of each year. If a school does not have a council, the review shall be completed by the principal with the involvement of parents, faculty, and staff.
- (3) The policy adopted by the local board to implement school-based decision making shall also address the following:
- (a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;
 - (b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;
 - (c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;
 - (d) Professional development plans developed pursuant to KRS 156.095;
 - (e) Parent, citizen, and community participation including the relationship of the council with other groups;

- (f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;
 - (g) Requirements for waiver of district policies;
 - (h) Requirements for record keeping by the school council; and
 - (i) A process for appealing a decision made by a school council.
- (4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.
- (5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.
- (6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. ***Experienced members may participate in the training for new members to fulfill their training requirement.*** School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education, ~~and school council members shall complete the required training no later than thirty (30) days after the beginning of the service year for which they are elected to serve.~~ By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.
- (7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making, including but not limited to a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.
- (8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements specified in KRS 156.095, except as provided in KRS 158.649. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

- (9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.
- (b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.
- (c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.
- (d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

Approved March 18, 2003

CHAPTER 82

(SB 137)

AN ACT relating to counties dealing with public indebtedness.

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

Section 1. KRS 11.400 is amended to read as follows:

- (1) In addition to the duties prescribed for the office by the Constitution of the Commonwealth of Kentucky, the duties of the Lieutenant Governor shall be as follows:
- (a) To serve as vice chairman of the State Property and Buildings Commission as prescribed by KRS 56.450;
- (b) To serve as vice chairman of the Kentucky Turnpike Authority as prescribed in KRS 175.430;
- (c) To serve as a member of the Kentucky Council on Agriculture in accordance with KRS 247.417;
- (d) ~~To serve as vice chairman of the County Debt Commission as provided in KRS 66.300;~~
- ~~(e)~~ To appoint one (1) member of the Public Officials' Compensation Commission as provided in KRS 64.742;
- ~~(e)~~~~(f)~~ To serve as a member of the Board of the Kentucky Housing Corporation in accordance with KRS 198A.030;
- ~~(f)~~~~(g)~~ To serve as a member of the Appalachian Development Council as provided in KRS 154.33-020; and
- ~~(g)~~~~(h)~~ To serve as a member of Kentucky delegations on the following interstate compact commissions or boards:
1. The Southern Growth Policies Board as prescribed by KRS 147.585;
 2. The Breaks Interstate Park Commission as provided in KRS 148.225;
 3. The Falls of the Ohio Interstate Park Commission pursuant to KRS 148.242;
 4. The Tennessee-Tombigbee Waterway Development Authority pursuant to KRS 182.305;
 5. The Interstate Water Sanitation Control Commissions as prescribed by KRS 224.18-710; and
 6. The Kentucky Mining Advisory Council for the Interstate Mining Compact as provided by KRS 350.310.

- (2) Nothing in this section shall prohibit the Governor and Lieutenant Governor from agreeing upon additional duties within the executive branch of the state government to be performed by the Lieutenant Governor.

Section 2. KRS 66.310 is amended to read as follows:

- (1) No county may issue bonds which, together with all other net indebtedness of the county plus the principal amount of any outstanding self-supporting obligations, is in excess of one-half of one percent (0.5%) of the value of the taxable property therein, as determined by the next preceding certified assessment, without having first secured the written approval of the state local debt officer. Any other bonds to be issued by any county may be submitted for approval as hereinafter provided. When the fiscal court of any county has petitioned the state local debt officer under KRS 66.320 for assistance in formulating a plan for reorganizing its debt structure, or has received the approval of any issue of county bonds voluntarily as provided in this section, all bonds thereafter issued by the county must be approved as provided in this section.
- (2) Without the approval of the state local debt officer a county may not lease, as lessee, a building or public facility that has been or is to be financed at the county's request or on its behalf through the issuance of bonds by another public body or by a nonprofit corporation serving as an agency and instrumentality of the county for that purpose, unless the bonds, if issued by the county itself as its own general obligations, would be exempt under the provisions of subsection (1). If his *or her* approval is required, the state local debt officer shall hold a hearing for the purpose of considering the terms of the lease upon the same basis as is provided under ~~subsections~~~~subsection~~ **(3) and (4) of this section**, and interested parties shall have the same right of appeal as is therein provided. This subsection does not apply to leases entered into before July 1, 1964, nor to renewals thereafter of leases entered into before that date, nor to bonds referred to in this subsection if those bonds have been sold prior to that date, whether or not actually delivered to the purchaser or purchasers thereof before that date.
- (3) The state local debt officer shall hold a hearing *in accordance with KRS Chapter 13B* for the purpose of determining whether any issue of bonds submitted to him *or her* for approval should be approved or disapproved. *The state local debt officer shall provide notice of the hearing to the county judge/executive of the county proposing to issue bonds, and the county judge/executive shall cause a copy of that notice to be published not less than twenty (20) days in advance of the date set for the hearing. Any person having a material interest in the issuance of the bonds shall have an opportunity to be heard and to present evidence at the hearing held by a hearing officer appointed by the state local debt officer. A record of the proceedings of the hearing shall be made, and the state local debt officer shall review the record and prepare a written decision approving or disapproving the issuance of the proposed bonds. The decision shall set forth the findings of fact upon which the state local debt officer bases his or her decision. On the day that the state local debt officer issues a decision, he or she shall mail a copy to the county judge/executive of the county proposing to issue the bonds and to any person who attended the hearing and requested to receive a copy of the decision.*
- (4) The state local debt officer shall *disapprove the issuance of the proposed bonds*~~withhold his approval~~ if he *or she finds that one (1) or more of the following conditions exist:*
 - (a) ~~he believes~~ The financial condition and prospects of the county do not warrant a reasonable expectation that interest and principal maturities can be met when due without seriously restricting other expenditures of the county, *including the debt service on the other outstanding obligations of the county;*
 - (b) ~~if, in his discretion,~~ The issue of bonds will not serve the best interests of both the county issuing the bonds and a majority of its creditors; or
 - (c) ~~if it appears that~~ The bonds or the issuance thereof will be invalid.
- (5) If the state local debt officer is petitioned by any county to approve the issuance of bonds to refund outstanding county bonds, and if the state local debt officer is unable to find that the bonds sought to be refunded were in their entirety validly issued, he *or she* shall nevertheless find that bonds may be issued validly for the purpose of refunding the bonds, in equivalent or lesser par principal amount, provided that the interest rate to be borne by the refunding bonds shall be sufficient to make possible their liquidation within their life at no greater average annual cost to the county than would be required to liquidate, within the same number of years, the portion of the outstanding indebtedness found to be valid at the interest rate borne by it before refunding.

~~[(4)]~~ The state local debt officer shall give at least two (2) weeks' notice of the hearing required by subsection (2) or (3) of this section to the county judge/executive of the county proposing to issue bonds, and the county judge/executive shall cause a copy of that notice to be published pursuant to KRS Chapter 424. Any party having a material interest shall have an opportunity to be heard and to present evidence. The state local debt officer shall make a record of the proceedings of the hearing and shall prepare a written decision approving or disapproving the issuance of the proposed bonds. Any interested party or taxpayer may within fifteen (15) days, exclusive of Sundays and holidays, appeal to the commission from the decision of the state local debt officer. The commission, upon the basis of the record prepared by the state local debt officer, and of any additional evidence which may be introduced, shall pass upon the decision of the state local debt officer.]

(6)~~[(5)]~~ Within thirty (30) days~~[-, exclusive of Sundays and holidays,]~~ after *the date of* a decision by the *state local debt officer approving a county's proposal to issue bonds*~~[commission]~~, any interested party or taxpayer of the county~~[-, upon filing bond for costs,]~~ may appeal to the~~[- Franklin Circuit Court or, in the case only of bonds proposed to be issued for the purpose of funding floating indebtedness, to either the Franklin Circuit Court or to the]~~ Circuit Court of the county proposing to issue *the*~~[those]~~ bonds. Appeal shall be taken by filing *a complaint* with the clerk of the court *and serving a copy of the complaint upon the state local debt officer by certified mail, return receipt requested*~~[a copy of the record of the proceedings and decision of the state local debt officer and the decision of the commission].~~ The ~~[commission, the]~~ fiscal court~~[-, the taxpayers of the county,]~~ and, in the case of funding or refunding bonds, the creditors whose claims or bonds are proposed to be funded or refunded, shall be made parties to the appeal. *The state local debt officer shall not be named as a party to an appeal under this subsection, but shall be allowed to intervene in the appeal upon his or her motion.* Summons shall be served and class representatives designated as provided in the Rules of Civil Procedure. *Within thirty (30) days of receipt of the complaint, the state local debt officer shall certify and file a copy of the record of the proceedings and his or her decision with the Circuit Court*~~[To facilitate adjudication, the state local debt officer shall, on payment of a reasonable fee therefor to be fixed by the state local debt officer, supply a certified copy of the records to any party].~~

(7) *A county proposing to issue bonds may appeal a decision of the state local debt officer disapproving the issuance of the bonds by filing a complaint with the Franklin Circuit Court within thirty (30) days after the date of the decision. The state local debt officer shall be named as a defendant in an appeal under this subsection. Summons shall be issued and served as provided in the Rules of Civil Procedure. With his or her answer, the state local debt officer shall certify and file a copy of the record of the proceedings and his or her decision.*

(8) *Appeals to the Circuit Court*~~[The case]~~ shall be advanced on the docket~~[- of the Circuit Court]~~ and shall be heard and decided *upon the record certified by the state local debt officer. The*~~[as in the case of a declaratory judgment, except that all]~~ findings of fact of the state local debt officer~~[- and of the commission]~~ shall be final if supported by any substantial evidence; however, if only the question of the validity of the bonds proposed to be funded or refunded is in issue, additional evidence relating to the validity of the bonds may be presented.

~~(9)~~[(6)]~~~~ An appeal may be taken from the Circuit Court to the Court of Appeals in the manner provided in the Rules of Civil Procedure.

~~(10)~~[(7)]~~~~ If no appeal is taken from the approval of a bond issue by the state local debt officer~~[- or the commission]~~ as provided in this section, the decision as to the legality of the bonds shall be res *judicata*~~[adjudicata]~~ in any subsequent case or cases raising the question of their legality.

~~(11)~~[(8)]~~~~ Record of the approval of bonds as provided in this section shall be made in the minutes of the next meeting of the fiscal court of the county issuing the bonds so approved, and copies of all decisions of the state local debt officer~~[- and of the commission]~~ shall be filed with the Secretary of State.

~~(12)~~[(9)]~~~~ As used in this section, bonds means bonds and obligations.

Section 3. KRS 66.990 is amended to read as follows:

- (1) Any officer who willfully fails to perform his *or her* duty under this chapter shall be deemed guilty of misfeasance in office, and shall be fined not more than one hundred dollars (\$100).
- (2) Any county or state officer who knowingly violates any of the provisions of KRS ~~66.310 or 66.300 to~~ 66.320 shall, in addition to the specific liabilities imposed for violating any of the provisions of those sections, be guilty of a misdemeanor and, upon conviction thereof, shall have his *or her* office declared vacant, and may also be fined not more than five hundred dollars (\$500) or imprisoned for not more than ninety (90) days, or both so fined and imprisoned.

Section 4. The following KRS section is repealed:

66.300 County Debt Commission -- Appeal from rulings of state local debt officer.

Approved March 18, 2003

CHAPTER 83

(SB 138)

AN ACT relating to records of Public Service Commission proceedings.

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

Section 1. KRS 278.360 is amended to read as follows:

A full and complete record shall be kept of all contested proceedings had before the commission or any commissioner on any formal hearing~~[,]~~ and *may, at the commission's discretion, be made in videotape or other format in accordance with the Kentucky Rules of Civil Procedure. A stenographic transcript shall not be required. However, a party to a proceeding may, by motion to the commission made prior to the hearing, request that a stenographic transcript be made by a reporter approved by the commission*~~[all testimony shall be taken down by a reporter appointed by the commission]~~. *The commission shall not deny the motion except for a finding of good cause.*

Approved March 18, 2003

CHAPTER 84

(SB 146)

AN ACT relating to the Public Service Commission.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

- (1) *For the purposes of this Section, "NESC" means the National Electrical Safety Code as published by the Institute of Electrical and Electronics Engineers, Inc.*
- (2) *Except as otherwise provided by law, the commission shall, in enforcing service adequacy and safety standards for electric utilities, ensure that each electric utility constructs and maintains its plant and facilities in accordance with accepted engineering practices as set forth in the commission's administrative regulations and orders and in the most recent edition of the NESC.*

Approved March 18, 2003

CHAPTER 85

(SB 153)

AN ACT relating to insurance.

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

Section 1. KRS 304.14-230 is amended to read as follows:

- (1) Subject to the insurer's requirements as to payment of premium, every policy shall be mailed or *otherwise* delivered to the insured or to the person entitled thereto within a reasonable period of time after its issuance, except where a condition required by the insurer has not been met by the insured. *By agreement between the insurer and the insured or the person entitled to receive the policy, the policy may be delivered electronically.*
- (2) In the event the original policy is delivered or is so required to be delivered to or for deposit with any vendor, mortgagee, or pledgee of any motor vehicle or aircraft, and in which policy any interest of the vendee, mortgagor, or pledgor in or with reference to such vehicle or aircraft is insured, a duplicate of such policy, or

memorandum thereof setting forth the name and address of the insurer, type of coverage, limit of liability, premiums for the respective coverages, and duration of the policy, shall be delivered by the vendor, mortgagee, or pledgee to each such vendee, mortgagor, or pledgor named in the policy or coming within the group of persons designated in the policy to be so included. If the policy does not provide coverage of legal liability for injury to persons or damage to the property of third parties, a statement of such fact shall be printed, written, or stamped conspicuously on the face of such duplicate policy or memorandum. This subsection does not apply to inland marine floater policies.

Section 2. KRS 304.14-240 is amended to read as follows:

Any insurance policy terminating by its terms at a specified expiration date and not otherwise renewable, may be renewed or extended at the option of the insurer, upon a currently authorized policy form and at the premium rate then required therefor, for a specific additional period or periods by a certificate or by indorsement of the policy, and without requiring the issuance of a new policy. ***By agreement between the insurer and insured, the policy may be delivered electronically.***

Approved March 18, 2003

CHAPTER 86

(SB 168)

AN ACT relating to human service delivery program and declaring an emergency.

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

Section 1. KRS 281.873 is amended to read as follows:

- (1) As used in this section and KRS 281.874, unless the context otherwise requires:
 - (a) "Certificate Type 01" means a private automobile;
 - (b) "Certificate Type 02" means a taxicab service;
 - (c) "Certificate Type 03" means a bus service;
 - (d) "Certificate Type 04" means a nonprofit transit system;
 - (e) "Certificate Type 07" means a specialty carrier certified to transport nonemergency, ambulatory disoriented persons;
 - (f) "Certificate Type 08" means a specialty carrier, using lift-equipped vehicles in compliance with the Americans with Disabilities Act, certified to transport nonemergency, nonambulatory persons;~~{and}~~
 - (g) "Level of eligibility" means the specialty transport classification a person is designated based upon the written recommendation of the person's personal physician, ***physician assistant, advanced registered nurse practitioner, or qualified mental health professional*** that is used to establish the type of specialty transport needed for the person; ***and***
 - (h) ***"Qualified mental health professional" shall have the same meaning as in KRS 202A.011.***
- (2) Except for members of the general public, the level of eligibility shall dictate both the necessity and the type of special carrier transport for a person participating in the human service transportation delivery program and shall ensure the person shall be transported in the appropriate vehicle designed to accommodate the person's level of eligibility. The broker shall, upon request by a recipient, provide specialty carrier transportation for a period up to thirty (30) days without written recommendation of the recipient's personal physician, ***physician assistant, advanced registered nurse practitioner, or qualified mental health professional***. A broker shall be prohibited from changing or altering a person's level of eligibility and the accompanying certificate type. A broker shall report questionable specialty classifications to the cabinet.
- (3) ***A parent, guardian, or designee of the parent or guardian shall accompany any minor under the age of thirteen (13) who is receiving human service transportation delivery program services. A parent, guardian, or designee of the parent or guardian may accompany a minor between the ages of thirteen (13) and seventeen (17) who is receiving human service transportation delivery program services.***

- (4) *An escort shall not be required for any person aged thirteen (13) or older, unless the person's physician, physician assistant, advanced registered nurse practitioner, or qualified mental health professional has recommended that the person be transported with an escort based upon one (1) of the following criteria:*
 - (a) *A history of a behavior that has resulted in harm to the person or to others while receiving human service transportation delivery program services;*
 - (b) *A medical history of a behavior that indicates that the person may be a danger to himself or herself or others; or*
 - (c) *Information that the person may become violent in a transportation setting from the person's support coordinator, who is providing services under 907 KAR 1:145 or any other Medicaid program, and also from the person's parent or guardian.*
- (5) *A requirement for an escort under subsection (4) of this section shall be removed upon the recommendation of the physician, physician assistant, advanced registered nurse practitioner, or qualified mental health professional.*
- (6) *If an escort is required under subsection (4) of this section, the transportation provider shall provide one (1) escort per vehicle to pick up each individual at his or her designated location, remain with the person during transport, and escort the person to the designated health care provider or other covered service.*
- (7) *If a person receiving transportation delivery services under a Certificate Type 07 or 08 is not required to have an escort under the provisions of subsection (4) of this section, but needs assistance to and from the transportation vehicle, the transportation provider shall provide that service if the following conditions exist:*
 - (a) *It would take less than five (5) minutes to accompany the person to and from the transportation vehicle; and*
 - (b) *The transportation provider can maintain visual contact with his or her vehicle if there are other persons receiving transportation delivery services remaining in the vehicle.*
- (8) *Any transportation provider that leaves a vehicle to accompany a person to or from the transportation vehicle shall:*
 - (a) *Turn off the vehicle engine and retain the key in his or her possession; or*
 - (b) *Enable a transmission locking device that prohibits unauthorized use of the vehicle and retain the key in his or her possession.*
- (9) *If a person receiving human service transportation services does not require an escort under the provisions of subsection (4) of this section, but needs assistance to and from the vehicle, the transportation provider shall provide one (1) escort per vehicle if the conditions of paragraphs (a) and (b) of subsection (7) of this section do not exist.*
- (10) *If a state agency has been appointed as the guardian of a person receiving human service transportation program services, the state shall ensure that the transportation provider provides an escort when the person meets the criteria under subsection (4) of this section.*
- (11) *A parent, guardian, or designee of the parent or guardian accompanying a minor shall not be charged a fare.*

Section 2. Whereas recent policy changes established by the Transportation Cabinet to require an escort for all persons with a level of eligibility for transportation under a Certificate Type 07 has created a hardship for families, Medicaid providers, and transportation providers which could result in the denial of transportation for disabled Medicaid recipients to necessary medical services, 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 18, 2003

CHAPTER 87

(SB 165)

AN ACT relating to mine maps.

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

Section 1. KRS 131.190 is amended to read as follows:

- (1) No present or former secretary or employee of the Revenue Cabinet, member of a county board of assessment appeals, property valuation administrator or employee, or any other person, shall intentionally and without authorization inspect or divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the cabinet or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws, nor does it extend to any matter properly entered upon any assessment record, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or his properly authorized agent with information respecting his own return. Further, this prohibition does not preclude the secretary or any employee of the Revenue Cabinet from testifying in any court, or from introducing as evidence returns or reports filed with the cabinet, in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws. The secretary or the secretary's designee may provide an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820(1), or owners of surface land under which the unmined minerals lie, factual information about the owner's property derived from third-party returns filed for that owner's property, under the provisions of KRS 132.820(2), that is used to determine the owner's assessment. This information shall be provided to the owner on a confidential basis, and the owner shall be subject to the penalties provided in KRS 131.990(2). The third-party filer shall be given prior notice of any disclosure of information to the owner that was provided by the third-party filer.
- (2) The secretary shall make available any information for official use only and on a confidential basis to the proper officer, agency, board or commission of this state, any Kentucky county, any Kentucky city, any other state, or the federal government, under reciprocal agreements whereby the cabinet shall receive similar or useful information in return.
- (3) Statistics of tax-paid gasoline gallonage reported monthly to the Revenue Cabinet under the gasoline excise tax law may be made public by the cabinet.
- (4) Notwithstanding the provisions of this section to the contrary, information received from the Internal Revenue Service shall not be made available to any other agency of state government, or any county, city, or other state, and shall not be inspected intentionally and without authorization by any present secretary or employee of the Revenue Cabinet, or any other person.
- (5) Statistics of crude oil as reported to the Revenue Cabinet under the crude oil excise tax requirements of KRS Chapter 137 and statistics of natural gas production as reported to the Revenue Cabinet under the natural resources severance tax requirements of KRS Chapter 143A may be made public by the cabinet by release to the Department of Mines and Minerals.
- (6) *Notwithstanding any provision of law to the contrary, beginning with mine-map submissions for the 1989 tax year, the cabinet may make public or divulge only those portions of mine maps submitted by taxpayers to the cabinet pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-out parcel areas. These electronic maps shall not be relied upon to determine actual boundaries of mined-out parcel areas. Property boundaries contained in mine maps required under KRS Chapters 350 and 352 shall not be construed to constitute land surveying or boundary surveys as defined by KRS 322.010 and any administrative regulations promulgated thereto.*

Section 2. KRS 352.480 is amended to read as follows:

- (1) The commissioner shall, upon the application therefor in written form by any ~~person~~^{interested party}, make or cause to be made, at the expense of the applicant, a duplicate of any final or abandoned mine map on file with the department. *The department also may make public or divulge any portion of a mine map submitted to the department by a licensee or operator.*

- (2) ~~No copy of any map of an active mine shall be made without the consent of the licensee, owner, lessee, or operator, except that when the owner of any land adjacent to or near the land of the licensee, owner, lessee, or operator files an affidavit with the commissioner showing ownership of the adjacent or nearby property, and alleging that he believes that the licensee, owner, lessee, or operator is encroaching upon or mining on his property, the commissioner shall cause to be furnished to the affiant, at the expense of the affiant, a duplicate of the map filed by the licensee, owner, operator, or lessee.~~
- (3) When any underground mine is worked out or is about to be abandoned or indefinitely closed, the licensee shall make or cause to be made a final map of the mine, to show the entire worked-out area at the time the mine was abandoned or closed. A certified copy of *the final map of the mine* ~~workings~~, on a scale of not less than one hundred (100) and not more than five hundred (500) feet to the inch shall be filed with the commissioner.
- ~~((4) When satisfactory evidence, in the form of an affidavit, is furnished by any person planning to open or reopen a mine, a duplicate copy of a map of any abandoned mine which might affect the safety of the men to be employed in the proposed mine may be furnished the applicant upon request to the commissioner. The duplicate copy of the map shall be made at the expense of the applicant.)~~

Approved March 18, 2003

CHAPTER 88

(SB 192)

AN ACT relating to publication of candidates' names.

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

Section 1. KRS 118.255 is amended to read as follows:

- (1) The Secretary of State shall receive a fee of five hundred dollars (\$500) for a candidate for statewide elected state office or the Congress, two hundred dollars (\$200) for a candidate for Commonwealth's attorney, the General Assembly, or the District Court, Circuit Court, Court of Appeals, or Supreme Court, twenty dollars (\$20) for candidates for office in cities of the fifth or sixth class, fifty dollars (\$50) for other candidates who file with the Secretary of State for each notification and declaration and petition filed with him, and fifty dollars (\$50) for a write-in candidate for office other than municipal office in cities of the fifth or sixth class, to be paid by the candidate, or the candidate's representative, when the notification and declaration and petition or declaration of intent is filed.
- (2) The county clerk shall receive a fee pursuant to KRS 64.012 for each notification and declaration and petition filed with him to be paid by the candidate at the time of the filing. ~~The county clerk shall receive a fee pursuant to KRS 64.012 for each name published as provided in KRS 118.235, to be paid by the county.~~
- (3) The amount of fees received by the Secretary of State and county clerk for notifications and declarations and petitions filed with them, minus twenty dollars (\$20) for each notification and declaration or petition filed, shall be forwarded to the State Treasurer for deposit in the election campaign fund established by KRS 121A.020.
- (4) The county clerk and/or Secretary of State shall pay the cost of mailing the certification of nomination and declaration petition from the fee collected from the candidate.

Section 2. The following KRS sections are repealed:

118.235 Publication of names of candidates by county clerk.

118A.120 Publication and posting of names of certified candidates.

Approved March 18, 2003

CHAPTER 89**(SB 71)**

AN ACT relating to administrative regulations.

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

Section 1. KRS 6.950 is amended to read as follows:

As used in KRS 6.955 to 6.975, unless the context otherwise requires:

- (1) "Fiscal note" means a realistic statement of the estimated effect on expenditures or revenue of local government in implementing or complying with any proposed act of the General Assembly whether filed in regular session or prefiled during the interim, ~~regulation,~~ order, or administrative law.
- (2) "Local government" means cities, counties or urban-county governments.
- (3) "State mandate" means any state constitutional, legislative, or executive law or order which requires any local government to establish, expand, or modify its activities, programs, or structure in such a way as to affect expenditures from local revenues.

Section 2. KRS 6.955 is amended to read as follows:

- (1) No bill or resolution which relates to any aspect of local government or any service provided thereby shall be voted on by either chamber of the General Assembly unless a fiscal note has been prepared and attached to the bill pursuant to KRS 6.960, except that, if in the chamber in which the bill is being considered, two-thirds (2/3) of the members elected vote to waive the fiscal note requirement, no note shall be required. The fiscal note waiver shall be certified by the clerk of the chamber in which the bill is being considered, and such certification shall be attached to the bill. Although waived in one chamber, a fiscal note shall be required when the bill goes to the other chamber unless a majority of the members elected to such chamber vote to waive the fiscal note requirement.
- (2) ~~An~~**No** executive ~~regulation or~~ order which relates to any aspect of local government or any service provided thereby shall **not** be ~~promulgated or~~ issued unless a fiscal note has been prepared and made a part of the ~~regulation or~~ order pursuant to KRS 6.960.

Section 3. KRS 6.960 is amended to read as follows:

- (1) The director of the Legislative Research Commission shall have the fiscal note prepared by the Legislative Research Commission or by other departments or agencies of state government for any bill introduced before the General Assembly which relates to any aspect of local government or any service provided thereby. Departments or agencies of state government so requested by the director shall comply with the request within seven (7) working days of receipt. The fiscal note shall be filed with the clerk in the chamber of the General Assembly in which the bill was introduced and attached to each copy of the bill.
- (2) The secretary of finance shall have the fiscal note prepared by the Finance and Administration Cabinet or by other departments or agencies of state government for any ~~regulation or~~ order promulgated by an executive department or agency which relates to any aspect of local government or any service provided thereby. The director of the Legislative Research Commission shall determine the form of such notes. The secretary may request the advice or assistance of the Legislative Research Commission in the preparation of the fiscal note. The fiscal note shall be attached to each copy of the ~~regulation or~~ order.

Section 4. KRS 6.965 is amended to read as follows:

- (1) A fiscal note shall state whether the bill, ~~regulation,~~ or order is determined to be a state mandate. Such determination shall be made by the director of the Legislative Research Commission except as provided by subsection (2) of this section. If the bill, ~~regulation,~~ or order is a state mandate, the note shall contain an estimate of the effect the law will have on expenditures or revenues of local government for the first full fiscal year the law is to be in effect.
- (2) The director, at his discretion, may seek a certification from the Attorney General on the question of whether a bill, ~~regulation,~~ or order constitutes a state mandate. The Attorney General shall, within seven (7) working days from receipt of the request, certify to the director that the bill, ~~regulation,~~ or order is or is not a state mandate.

- (3) If any bill~~[-, regulation]~~ or order is amended after the preparation of the fiscal note, it shall be resubmitted to the person responsible for preparation of the note who shall reevaluate the bill~~[-, regulation]~~ or order as amended and change the fiscal note in accordance therewith.
- (4) Copies of the fiscal note shall be furnished by the Legislative Research Commission to any local official upon written request.

Section 5. KRS 13A.050 is amended to read as follows:

- (1) The Legislative Research Commission shall compile, publish, and distribute the administrative regulations filed by administrative bodies. This compilation shall be known as the Kentucky Administrative Regulations Service and shall constitute the official state publication of administrative regulations.
- (2)
 - (a) There is hereby created a publication known as "The Administrative Register" to be printed and published on a monthly basis by the Legislative Research Commission for the purpose of giving notice of administrative regulations filed in accordance with this chapter.
 - (b) Every administrative regulation forwarded to the Legislative Research Commission shall have its complete text printed in the Administrative Register along with the accompanying statements required by KRS 13A.190, 13A.210, 13A.2251(1), 13A.240, 13A.245, 13A.250, and 13A.270.
 - (c) Within five (5) workdays of the publication of an administrative regulation in the Administrative Register, an administrative body shall:
 1. Review the text and accompanying statements of the administrative regulation; and
 2. Notify the regulations compiler in writing of errors.
- (3) The Administrative Register shall be published the first day of each month and shall include all administrative regulations~~[- and notices of intent required by the provisions of KRS 13A.015,]~~ received by the Legislative Research Commission by 12 noon, eastern time, on the fifteenth day of the preceding month. When the fifteenth day falls on a Saturday, Sunday, or holiday the deadline is the workday which immediately precedes the Saturday, Sunday, or holiday.
- (4) The compiler shall cause to be prepared a certificate to the effect that the text of the administrative regulations as printed in this service is correct. One (1) copy of the Kentucky Administrative Regulations Service with the original certificate therein shall be maintained in the Office of the Secretary of State. All other copies shall contain a printed copy of the certificate and shall constitute prima facie evidence of the law in all courts and proceedings.
- (5) The Commission shall prescribe reasonable fees for subscription to the Kentucky Administrative Regulations Service and the Administrative Register. All fees paid to the Commission for these publications shall be placed in the State Treasury to the credit of a revolving trust or agency fund account, for use by the Legislative Research Commission in carrying out the provisions of this section.
- (6) Copies of regulatory impact analysis shall be made available to any interested party upon request to the Legislative Research Commission. The Commission may prescribe reasonable fees for duplication services and all fees paid to the Commission for duplication services shall be placed in the State Treasury to the credit of a revolving trust or agency fund account, for use by the Legislative Research Commission in carrying out the provisions of this subsection.

Section 6. KRS 13A.080 is amended to read as follows:

Each issue of the Administrative Register shall contain a notice describing the regulation review process and the methods by which the public may comment upon administrative regulations, including the procedure for contacting agencies about public hearings *and the public comment period*.

Section 7. KRS 13A.125 is amended to read as follows:

Prior to the effective date of a new administrative regulation, or an amended administrative regulation that has been filed with the Legislative Research Commission, an administrative body shall not file subsequent amendments to that administrative regulation unless:

- (1) Failure to do so would result in a loss of accreditation, or federal or state funds, or the imposition of another state or federal penalty; or

- (2) A court decision, or a federal or state mandate requires immediate implementation of the amendment; or
- (3) Conditions warrant the filing of an emergency administrative regulation; or
- (4) The amendments are made:
 - (a) After a public hearing *or public comment period* as provided by KRS 13A.280; or
 - (b) At a subcommittee meeting during which the administrative regulation is reviewed as provided by KRS 13A.290.

Section 8. KRS 13A.190 is amended to read as follows:

- (1) An emergency administrative regulation is one that:
 - (a) Must be placed into effect immediately in order to:
 - 1. Meet an imminent threat to public health, safety, or welfare;
 - 2. Prevent a loss of federal or state funds;
 - 3. Meet a deadline for the promulgation of an administrative regulation that is established by state law, or federal law or regulation; or
 - 4. Protect human health and the environment; and
 - (b)
 - 1. Is temporary in nature and will expire as provided in this section; or
 - 2. Is temporary in nature and will be replaced by an ordinary administrative regulation as provided in this section.
- (2) Emergency administrative regulations shall become effective and shall be considered as adopted upon filing. Emergency administrative regulations shall be published in the next Administrative Register.
- (3)
 - (a) Except as provided by paragraph (b) of this subsection, emergency administrative regulations shall expire one hundred seventy (170) days after the date of publication or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.
 - (b) If an administrative body extends the ~~public comment period as provided by KRS 13A.270(1), or extends the~~ time for filing a statement of consideration as provided by **subsection (2)(b) of Section 14 of this Act** ~~[KRS 13A.280(3)]~~, an emergency administrative regulation shall remain in effect for one hundred seventy (170) days after the date of publication plus the number of days extended under the provisions of **subsection (2)(b) of Section 14 of this Act** ~~[KRS 13A.270(1) or 13A.280(3), as applicable]~~.
- (4) An emergency administrative regulation shall not be ~~filed~~ ~~renewed~~ for a period of nine (9) months after it has been initially filed. No other emergency administrative regulation that is identical to or substantially the same as the previously filed emergency administrative regulation shall be promulgated.
- (5) When an emergency administrative regulation governing the same subject matter governed by an emergency administrative regulation filed within the previous nine (9) months is filed, it shall contain a detailed explanation of the manner in which it differs from the previously filed emergency administrative regulation. The detailed explanation shall be included in the statement of emergency.
- (6) Each emergency administrative regulation shall contain a statement of:
 - (a) The nature of the emergency;
 - (b) The reasons why an ordinary administrative regulation is not sufficient;
 - (c) Whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation;
 - (d) If the emergency administrative regulation will not be replaced by an ordinary administrative regulation, the reasons therefor; and
 - (e) If applicable, the explanation required by subsection (5) of this section.
- (7) An administrative body shall attach the:

- (a) Statement of emergency required by subsection (6) of this section to the front of the original and each copy of a proposed emergency administrative regulation; and
 - (b) Regulatory impact analysis, tiering statement, federal mandate comparison, fiscal note, summary of material incorporated by reference if applicable, and other forms or documents required by the provisions of this chapter to the back of the emergency administrative regulation.
- (8) (a) If an emergency administrative regulation will not be replaced by an ordinary administrative regulation, the administrative body shall schedule a public hearing *and public comment period* pursuant to KRS 13A.270(1). The public hearing *and public comment period* information required by KRS 13A.270(2) shall be attached to the back of the emergency administrative regulation.
- (b) *If an emergency administrative regulation will be replaced by an ordinary administrative regulation:*
- 1. *The ordinary administrative regulation shall be filed at the same time as the emergency administrative regulation that will be replaced; and*
 - 2. *A public hearing and public comment period shall not be required for the emergency administrative regulation.*
- (9) The statement of emergency shall have a two (2) inch top margin. The number of the emergency administrative regulation shall be typed directly below the heading "Statement of Emergency." The number of the emergency administrative regulation shall be the same number as the ordinary administrative regulation followed by an "E."
- (10) Each executive department emergency administrative regulation shall be signed by the head of the administrative body and countersigned by the Governor prior to filing with the Commission. These signatures shall be on the statement of emergency attached to the front of the emergency administrative regulation.
- (11) (a) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the emergency administrative regulation shall expire on the date the ordinary administrative regulation is withdrawn.
- (b) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.
- (12) (a) If an emergency administrative regulation, that was intended to be replaced by an ordinary administrative regulation, is withdrawn, the emergency administrative regulation shall expire on the date it is withdrawn.
- (b) If an emergency administrative regulation has been withdrawn, the ordinary administrative regulation that was filed with it shall not expire unless the administrative body informs the regulations compiler that the ordinary administrative regulation is also withdrawn.
- (c) If an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.
- (13) A subcommittee may review an emergency administrative regulation and may recommend to the Governor that the regulation be withdrawn.

Section 9. KRS 13A.210 is amended to read as follows:

- (1) When promulgating administrative regulations and reviewing existing ones, administrative bodies shall, whenever possible, tier their administrative regulations to reduce disproportionate impacts on certain classes of regulated entities and to avoid regulating entities that do not contribute significantly to the problem the administrative regulation was designed to address. The tiers, however, must be based upon reasonable criteria and uniformly applied to an entire class. Administrative bodies ~~shall~~^{may} use any number of tiers ~~that they feel~~ will solve most *efficiently and* effectively the problem the administrative regulation addresses. A written statement ~~shall~~^{must} be submitted to the Legislative Research Commission explaining why tiering was or was not used.
- (2) Administrative bodies may use, but shall not be limited to, the following methods of tiering administrative regulations:

- (a) Reduce or modify substantive regulatory requirements;
 - (b) Eliminate some requirements entirely;
 - (c) Simplify and reduce reporting and recordkeeping requirements;
 - (d) Provide exemptions from reporting and recordkeeping requirements;
 - (e) Reduce the frequency of inspections;
 - (f) Provide exemptions from inspections and other compliance activities;
 - (g) Delay compliance timetables;~~and~~
 - (h) Reduce or modify fine schedules for noncompliance; *and*
 - (i) *Address and alleviate special problems of individuals and small businesses in complying with an administrative regulation.*
- (3) When tiering regulatory requirements, administrative bodies may use, but shall not be limited to, size and nonsize variables. Size variables include number of citizens, number of employees, level of operating revenues, level of assets, and market shares. Nonsize variables include degree of risk posed to humans, technological and economic ability to comply, geographic locations, and level of federal funding.
- (4) When modifying tiers, administrative bodies shall monitor, but shall not be limited to, the following variables:
- (a) Changing demographic characteristics;
 - (b) Changes in the composition of the work force;
 - (c) Changes in the inflation rate requiring revisions of dollar-denominated tiers;
 - (d) Changes in market concentration and segmentation;
 - (e) Advances in technology; and
 - (f) Changes in legislation.
- (5) When tiering administrative regulations for small business concerns, administrative bodies shall use the small business size standards as defined in Section 632 of the Federal Small Business Act and Part 121 of Title Thirteen of the Code of Federal Regulations.

Section 10. KRS 13A.220 is amended to read as follows:

All administrative regulations shall comply with the provisions of KRS 13A.222 and 13A.224.

- (1) An administrative body shall file with the regulations compiler:
 - (a) The original and five (5) copies of an administrative regulation; and
 - (b) At the same time the original and five (5) copies are filed, an electronic version, if available, of the administrative regulation and required attachments on a diskette or by e-mail in an electronic format approved by the regulations compiler.
- (2) The original and each copy of each administrative regulation shall be stapled in the top left corner. The original and the five (5) copies of each administrative regulation shall be grouped together.
- (3) An amendment to an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky Administrative Regulations Service or the Administrative Register. It shall be a typed original in the format specified in subsection (4) of this section.
- (4) The format of an administrative regulation shall be as follows:
 - (a) An administrative regulation shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches and shall be double-spaced ***through the last line of the body of the administrative regulation***. The first page shall have a two (2) inch top margin.~~Subsequent pages shall have one (1) inch top, bottom, and side margins.~~ The administrative regulation shall be typed in a twelve (12) point font approved by the regulations compiler. The lines on each page shall be numbered. Pages of an administrative regulation and documents attached to the administrative regulation shall be numbered sequentially. Page numbers shall be centered in the bottom margin of each page. Copies of the administrative regulation may be mechanically reproduced;

- (b) The regulations compiler shall place a stamp indicating the date and time of receipt of the administrative regulation in the two (2) inch margin on the first page;
 - (c) The cabinet, department, and division of the administrative body shall be listed on separate double-spaced lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed on the next double-spaced line by "(New Administrative Regulation)," "(Amendment)," "(Amended After *Comments* ~~Hearing~~)," ~~or~~ "(Repealer)," "*(New Emergency Administrative Regulation)*," "*(Emergency Amendment)*," or "*(Emergency Repealer)*," whichever is applicable;
 - (d) The notation shall be followed by the number and title of the administrative regulation on the next double-spaced line. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new administrative regulation;
 - (e) On the next double-spaced line following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list all statutes and other enactments, including any branch budget bills or executive orders, to which the administrative regulation relates or which shall be affected by the administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list the specific statutes and other enactments, where applicable, authorizing the promulgation of the administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by KRS 13A.2261, 13A.2264, 13A.2267; and
 - (f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY, FUNCTION, AND CONFORMITY:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation, a summary of the functions intended to be implemented by the administrative regulation, and, if applicable, the statement required by KRS 13A.245(2)(b).
- (5) The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an Arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an Arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses ~~{} (e.g., (a), (b), (c), etc.).~~ Subparagraphs shall be designated by an Arabic number followed by a period ~~{} (e.g., 1., 2., etc.).~~ Clauses shall be designated by lower case letters of the alphabet followed by a period ~~{} (e.g., a., b., c., etc.).~~ *Subclauses shall be designated by lower case Roman numerals in parentheses (e.g., (i), (ii), (iii), etc.).*
- (6) After the complete text of an administrative regulation, *on the following page*, the administrative body shall include the following information:
- (a) If the provisions of KRS 13A.120(3) are applicable, a statement that the official or the head of the administrative body has reviewed or approved the administrative regulation; the signature of such official or head; and the date on which such review or approval occurred;
 - (b) The authorizing signature of the administrative body promulgating the administrative regulation, and the date on which the administrative body approved the promulgation;
 - (c) Information relating to public hearings as required by KRS 13A.160 and 13A.270 *and the public comment period required by Section 13 of this Act*; and
 - (d) The name, position, address, telephone number, and facsimile number of the contact person of the administrative body. The contact person shall be the person authorized by the head of an administrative body to:
 1. Receive information relating to issues raised by the public or by a subcommittee prior to a public meeting of the subcommittee;
 2. Negotiate changes in language with a subcommittee in order to resolve such issues; and
 3. Answer questions relating to the administrative regulation.

- (7) The format for signatures required by paragraphs (a) and (b) of subsection (6) of this section shall be as follows:

- (a) The signature shall be placed on a signature line; and
- (b) The name and title of the person signing shall be typed immediately beneath the signature line.

Section 11. KRS 13A.230 is amended to read as follows:

- (1) The administrative body shall attach the following forms to the back of the original and each copy of an administrative regulation:
 - (a) Regulatory impact analysis *as required by KRS 13A.240*;
 - (b) Tiering statement *as required by Section 9 of this Act*;
 - (c) ***Fiscal note as required by Section 12 of this Act***~~[Local mandate impact statement]~~, if the administrative regulation relates to any aspect of local government or any service provided thereby;
 - (d) Federal mandate comparison, if applicable, *as required by KRS 13A.245*; and
 - (e) The summaries provided for in KRS 13A.2261, 13A.2264, and 13A.2267, if applicable.
- (2) The forms required by subsection (1) of this section shall be obtained from the regulations compiler.

Section 12. KRS 13A.250 is amended to read as follows:

- (1) Each administrative body which promulgates an administrative regulation which relates to any aspect of local government or any service provided thereby shall prepare and submit with the administrative regulation a fiscal note.
- (2) The~~[form of the]~~ fiscal note shall *state*:
 - (a) *The number of the administrative regulation;*
 - (b) *The name and telephone number of the contact person of the administrative body;*
 - (c) *Whether the administrative regulation relates to any aspect of a local government, including any service provided by that local government;*
 - (d) *The unit, part, or division of local government the administrative regulation will affect;*
 - (e) *In detail, the aspect or service of local government to which the administrative regulation relates, including identification of the applicable state or federal statute or regulation that mandates the aspect or service or authorizes the action taken by the administrative regulation; and*
 - (f) *The estimated effect of the administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation will be in effect. If specific dollar estimates cannot be determined, the administrative body shall provide a brief narrative to explain the fiscal impact of the*~~[be determined by the Commission by]~~ administrative regulation.
- (3) Any administrative body may request the advice and assistance of the Commission in the preparation of the fiscal note.

Section 13. KRS 13A.270 is amended to read as follows:

- (1) (a) ***In addition to the public comment period required***~~[Except as provided]~~ by paragraph (c) of this subsection, following publication in the Administrative Register of the text of an administrative regulation, the administrative body shall, unless authorized to cancel the hearing pursuant to subsection (5)~~[(4)]~~ of this section, hold a hearing, open to the public, on the administrative regulation.
- (b) The public hearing shall not be held before the twenty-first day or later than the last workday of the month in which the administrative regulation is published in the Administrative Register.
- (c) ***The***~~[If an]~~ administrative body ***shall accept written comments regarding the administrative regulation for a period of thirty (30) days following the publication of the administrative regulation in the Administrative Register. If the thirtieth day of the comment period falls on a Saturday, Sunday, or holiday, the last day of the comment period shall be the workday following the Saturday, Sunday, or holiday***~~[anticipates a significant number of public comments, it may extend the public comment period]~~

~~for up to fifteen (15) days by notifying the commission in writing on or before 12 noon of the scheduled public hearing date].~~

- (2) Each administrative regulation shall state:
 - (a) The place, time, and date of the scheduled public hearing;
 - (b) The manner in which interested persons shall submit their:
 1. Notification of attending the public hearing; and
 2. Written comments;
 - (c) That notification of attending the public hearing shall be transmitted to the administrative body no later than five (5) workdays prior to the date of the scheduled public hearing;~~and~~
 - (d) ***The deadline for submitting written comments regarding the administrative regulation in accordance with paragraph (c) of subsection (1) of this section; and***
 - (e) The name, position, address, and telephone and facsimile numbers of the person to whom a notification and written comments shall be transmitted.
- (3) (a) ***An administrative body shall provide a form to be completed and filed by a person who wishes to be notified that the administrative body has filed an administrative regulation. This registration shall be valid for a period of four (4) years from the date the form is filed with the administrative body, or until the person submits a written request to be removed from the notification list, whichever occurs first.***
 - (b) ***A copy of the administrative regulation as filed, and all attachments required by subsection (1) of Section 11 of this Act, shall be mailed:***
 1. ***To every person who has filed this form with the administrative body;***
 2. ***Within five (5) working days after the date the administrative regulation is filed with the Commission; and***
 3. ***With a cover letter from the administrative body requesting that affected individuals, businesses, or other entities submit written comments that identify the anticipated effects of the proposed administrative regulation.***
- (4) Persons desiring to be heard at the hearing shall notify the administrative body in writing as to their desire to appear and testify at the hearing not less than five (5) workdays before the scheduled date of the hearing.
- ~~(5)(4)~~ The administrative body shall immediately notify the regulations compiler by telephone and by letter if:
 - (a) No written notice of intent to attend the public hearing is received by the administrative body at least five (5) workdays before the scheduled hearing, and it chooses to cancel the public hearing; ~~and~~
 - (b) No written ***comments have been received by the close of the last day of the public comment period***~~[notice of intent to attend the public hearing is received by the administrative body at least five (5) workdays before the scheduled hearing; it has cancelled the public hearing; and it has received written or oral statements that shall be considered].~~
- (6) ~~(a)(5)~~ Upon receipt from interested persons of their intent to attend a public hearing, the administrative body shall notify the regulations compiler by telephone and by letter that the public hearing shall be held.
 - (b) ***Upon receipt of written comments, the administrative body shall notify the regulations compiler by telephone and by letter that written comments have been received.***
- ~~(7)(6)~~ Every hearing shall be conducted in such a manner as to guarantee each person who wishes to offer comment a fair and reasonable opportunity to do so, whether or not such person has given the notice contemplated by subsection ~~(4)(3)~~ of this section. No transcript need be taken of the hearing, unless a written request for a transcript is made, in which case the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This section shall not preclude an administrative body from making a transcript or making a recording if it so desires.

- (8)(7) Nothing in this section shall be construed as requiring a separate hearing on each administrative regulation. Administrative regulations may be grouped at the convenience of the administrative body for purposes of hearings required by this section.

Section 14. KRS 13A.280 is amended to read as follows:

- (1) Following the *last day of the comment period*~~[scheduled hearing date]~~, the administrative body shall give consideration to all~~[written and oral]~~ comments received *at the public hearing and during the comment period*~~[by adjournment of the scheduled public hearing, or by the close of business on the scheduled public hearing date if the public hearing was not held]~~.
- (2) (a) *Except as provided in paragraph (b) of this subsection*, the administrative body shall~~[then]~~ file with the commission on or before 12 noon, eastern time, on the fifteenth day following the *last day of the comment period*~~[scheduled hearing date]~~ the statement of consideration relating to the administrative regulation.
- (b) *If the administrative body has received a significant number of public comments, it may extend the time for filing the statement of consideration for up to thirty (30) days by notifying the Commission in writing on or before 12 noon, eastern time, of the fifteenth day following the last day of the comment period. The administrative body shall file the statement of consideration with the Commission on or before 12 noon, eastern time, no later than the forty-fifth day following the last day of the comment period.*
- (3) (a) ~~[Except as provided by paragraph (b) of this subsection,]~~ If the administrative regulation is amended as a result of the hearing or written or oral comments received, the administrative body shall forward the items specified in paragraph (b)~~(c)~~ of this subsection to the regulations compiler by *12 noon, eastern time*, on the *applicable deadline specified in subsection (2) of this section*~~[fifteenth day following the hearing]~~.
- (b)~~[If an administrative body has received a significant number of public comments, it may extend the time for filing the statement of consideration for up to thirty (30) days by notifying the Commission in writing on or before 12 noon of the fifteenth day following the public hearing. The administrative body shall file with the Commission on or before 12 noon, eastern time, no later than the forty fifth day following the public hearing date the items specified in paragraph (c) of this subsection.]~~
- (e) 1. The original and five (5) copies of the administrative regulation indicating any amendments in the original wording resulting from *comments received at the public hearing and during the comment period*~~[the hearing, or resulting from written or oral comments received at the hearing or otherwise]~~;
2. The original and five (5) copies of the statement of consideration as required by subsection (2) of this section, attached to the back of the original and each copy of the administrative regulation; and
3. The regulatory impact analysis, tiering statement, federal mandate comparison, or fiscal note on local government. These documents shall reflect changes resulting from amendments made after the public hearing.
- (4) (a) *If the administrative regulation is not amended as a result of the public hearing, or written or oral comments received, the administrative body shall file the original and five (5) copies of the statement of consideration with the regulations compiler by 12 noon, eastern time, on the deadline established in subsection (2) of this section.*
- (b) *If the statement of consideration is not received by the regulations compiler at least fifteen (15) working days prior to a meeting of the Administrative Regulation Review Subcommittee, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.*
- (5) The format for the statement of consideration shall be as follows:
 - (a) The statement shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches. Copies of the statement may be mechanically reproduced;
 - (b) The *first page of the* statement of consideration shall have a two (2) inch top margin;

- (c) The heading of the statement shall consist of the words "STATEMENT OF CONSIDERATION RELATING TO" followed by the number of the administrative regulation that was the subject of the public hearing *and comment period* and the name of the promulgating administrative body. The heading shall be centered. This shall be followed by the words "Not Amended After *Comments*~~[Hearing]~~" or "Amended After *Comments*~~[Hearing]~~," whichever is applicable;
- (d) If a hearing has been held *or written comments received*, the heading is to be followed by:
1. A statement setting out the date, time and place of the hearing;
 2. A list of those *persons who attended*~~[attending]~~ the hearing or who ~~[have]~~ submitted ~~[written]~~ comments and the organization, agency, or other entity represented, if applicable; and
 3. The name and title of the representative of the promulgating administrative body;
- ~~(e) If a hearing has not been held, but written or oral comments have been received:~~
- ~~1. A list of those who have submitted written or oral comments and the organization, agency, or other entity represented, if applicable; and~~
 - ~~2. The name and title of the representative of the promulgating administrative body responding to the written or oral comments;~~
- ~~(f)~~ Following the general information, the promulgating administrative body shall summarize the *comments received at the public hearing and during the comment period*~~[written and oral comments received]~~ and the response of the promulgating administrative body. Each subject commented upon shall be summarized in a separate numbered paragraph. Each numbered paragraph shall contain two (2) subsections:
1. Subsection (a) shall be labeled "Comment," shall identify the name of the person, and the organization represented if applicable, who made the comment, and shall contain a summary of the comment; and
 2. Subsection (b) shall be labeled "Response" and shall contain the response to the comment by the promulgating administrative body;
- ~~(f)~~~~(g)~~ Following the summary and comments, the promulgating administrative body shall:
1. Summarize the statement and the action taken by the administrative body as a result of *comments received at the public hearing and during the comment period; and*
 2. *If amended after the comment period, list the changes made to the administrative regulation in the format prescribed by subsection (2)(c) and (d) of Section 17 of this Act;*
- ~~(g)~~~~(h)~~ If the promulgating administrative body amends the administrative regulation after a public hearing at which there were no participants other than administrative body personnel, this fact shall be noted in the statement; and
- ~~(h)~~~~(i)~~ If administrative regulations were considered as a group at a public hearing, one (1) statement of consideration may include the group of administrative regulations. If a comment relates to one (1) or more of the administrative regulations in the group, the summary of the comment and response shall specify each administrative regulation to which it applies.
- ~~{(5)} (a) If the administrative regulation is not amended as a result of the public hearing, or written or oral comments received, the administrative body shall file the original and five (5) copies of the statement of consideration as required by subsection (2) of this section with the regulations compiler by noon on the fifteenth day following the hearing.~~
- ~~(b) If the statement of consideration is not forwarded to the regulations compiler at least ten (10) working days prior to a meeting of the Administrative Regulation Review Subcommittee, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.}~~
- (6) If the administrative regulation is amended pursuant to subsection (3) of this section, the full text of the administrative regulation shall be published in the Administrative Register. The administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee after such publication.

- (7) If requested, copies of the statement of consideration shall be made available by the promulgating administrative body to persons attending the hearing or submitting comments.

Section 15. KRS 13A.290 is amended to read as follows:

- (1) Except as provided by KRS 158.6471 and 158.6472, within forty-five (45) days after publication of an administrative regulation in "The Administrative Register," or within ~~sixty (60)~~~~forty-five (45)~~ days of the receipt of a statement of consideration, the Administrative Regulation Review Subcommittee shall meet to review the administrative regulation.
- (2) The meetings shall be open to the public.
- (3) Public notice of the time, date, and place of the Administrative Regulation Review Subcommittee meeting shall be given in the Administrative Register.
- (4) A representative of the administrative body promulgating the administrative regulation under consideration shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the administrative body with authority to amend the administrative regulation is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.
- (5) Following the meeting and before the next regularly scheduled meeting of the Commission, the Administrative Regulation Review Subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The Administrative Regulation Review Subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has reviewed. One (1) copy thereof shall be sent to the promulgating agency. The Administrative Regulation Review Subcommittee's findings shall be published in the Administrative Register.
- (6)
 - (a) After review by the Administrative Regulation Review Subcommittee, the Commission shall, at its next regularly scheduled meeting, assign the *administrative regulation*~~{matter}~~ to:
 1. A subcommittee of appropriate jurisdiction over the subject matter *of the administrative regulation*; or
 2. During a session of the General Assembly, the House of Representatives and Senate standing committees of appropriate jurisdiction over the subject matter *of the administrative regulation*.
 - (b) Upon notification of the assignment by the Commission, the legislative subcommittee to which the *administrative regulation*~~{matter}~~ is assigned shall notify the regulations compiler:
 1. Of the date, time, and place of the meeting at which it will consider the *administrative regulation*~~{matter}~~; or
 2. That it will not meet to consider the *administrative regulation*~~{matter}~~.
- (7) Within thirty (30) days of the assignment, the subcommittee ~~may~~~~{shall}~~ hold a public meeting during which the regulation shall be reviewed. If the thirtieth day of the assignment falls on a Saturday, Sunday, or holiday, the deadline for review shall be the workday following the Saturday, Sunday, or holiday. The subcommittee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3). Notice of the time, date, and place of the meeting shall be placed in the legislative calendar.
- (8) Except as provided in subsection (9) of this section, a subcommittee shall be empowered to make the same nonbinding determinations and to exercise the same authority as the Administrative Regulation Review Subcommittee.
- (9) During a session of the General Assembly, standing committees of the Senate and House of Representatives shall agree in order to amend an administrative regulation or to find an administrative regulation deficient pursuant to KRS 13A.030(2) and (3) by:
 - (a) Meeting separately; or
 - (b) Meeting jointly. If the standing committees meet jointly, it shall require a majority vote of Senate members voting and a majority of House members voting in order to take action on the administrative regulation.

- (10) (a) Upon adjournment of the meeting at which a legislative subcommittee has considered an administrative regulation pursuant to subsection (7) of this section, the subcommittee shall inform the regulations compiler of its findings, recommendations, or other action taken on the administrative regulation.
- (b) Following the meeting and before the next regularly scheduled meeting of the Commission, the subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. One (1) copy thereof shall be sent to the promulgating agency. The subcommittee's findings shall be published in the Administrative Register.

Section 16. KRS 13A.300 is amended to read as follows:

- (1) The administrative body which has promulgated an administrative regulation may request at a meeting of a subcommittee that consideration of the administrative regulation be deferred by the subcommittee. Upon receipt of the request, the subcommittee may defer consideration of the administrative regulation.
- (2) A subcommittee may request that consideration of an administrative regulation be deferred by the promulgating administrative body. Upon receipt of the request, the promulgating administrative body may agree to defer consideration of the administrative regulation.
- ~~(3) Except as provided in subsections (1) and (2) of this section, neither the promulgating administrative body, the Commission, nor a subcommittee shall defer any action which is required to be taken pursuant to this chapter.~~
- ~~(4)~~ An administrative regulation that has been deferred shall be placed on the agenda of the next scheduled meeting of the subcommittee that is reviewing the administrative regulation. The subcommittee shall consider the administrative regulation as if it had met all other requirements of filing. Repromulgation shall not be required in such cases.

Section 17. KRS 13A.320 is amended to read as follows:

- (1) (a) An administrative body may amend an administrative regulation at a subcommittee meeting with the consent of the subcommittee. A subcommittee may amend an administrative regulation at a subcommittee meeting with the consent of the administrative body.
 - (b) An administrative regulation shall not be amended at a public meeting of a subcommittee unless the amendment concerns an issue that was related to the administrative regulation filed with the Legislative Research Commission and was:
 1. Considered at the public hearing; or
 2. Raised pursuant to a ~~written~~ comment received by the administrative body **at the public hearing or during the public comment period** pursuant to KRS 13A.280(1); or
 3. Raised by the subcommittee.
 - (c) Nothing in this chapter shall be construed to require its resubmission or refile or other action. The administrative regulation may be adopted as amended.
 - (d) Subsequent to its adoption, the administrative regulation shall be published in the Administrative Register, unless all amendments to the administrative regulation that were made at a meeting of a subcommittee:
 1. Relate only to the format and drafting requirements of KRS 13A.220(5) and 13A.222(4)(b), (c), (i), (j), and (k); and
 2. Do not alter the intent, meaning, conditions, standards, or other requirements of the administrative regulation.
 - (e) If the amendments to an administrative regulation made at a meeting of a subcommittee meet the requirements of paragraph (d) of this subsection, the regulations compiler shall publish a notice in the Administrative Register that the administrative regulation was amended at a subcommittee meeting only to comply with the format and drafting requirements of this chapter.
- (2) When an administrative body intends to amend an administrative regulation at a meeting of the subcommittee, the following requirements shall be met:

- (a) Amendments offered by the administrative body to resolve issues raised by a subcommittee prior to its meeting shall be approved by the head of the administrative body.
- (b) Amendments initiated by the administrative body shall be contained in a letter to the subcommittee. The letter shall:
 - 1. Identify the administrative body;
 - 2. State the number and title of the administrative regulation;
 - 3. Be dated;
 - 4. Be filed with the regulations compiler at least five (5) workdays prior to the meeting of the subcommittee; and
 - 5. Comply with the format requirements in paragraphs (c) and (d) of this subsection.
- (c) On separate lines, the amendment shall be identified by the number of the:
 - 1. Page;
 - 2. Section, subsection, paragraph, subparagraph, *clause, or subclause*, as appropriate; and
 - 3. Line.
- (d)
 - 1. If a word or phrase, whether or not underlined, is to be deleted, the amendment shall identify the word or phrase to be deleted and state that it is to be deleted. If a word or phrase is to be replaced by another word or phrase, the amendment shall specify the word or phrase that is to be deleted and shall specify the word or phrase that is to be inserted in lieu thereof.
 - 2. If new language is to be inserted, the amendment shall state that it is to be inserted, and the new language shall be underlined.
 - 3. If the amendment consists of no more than four (4) words, the words shall be placed between quotation marks. If the amendment consists of more than four (4) words, the amendment shall be indented and not placed between quotation marks.
 - 4. If a section, subsection, paragraph, subparagraph, clause, or subclause is to be deleted in its entirety, the amendment shall identify it and state that it is deleted in its entirety, whether or not it contains underlined or bracketed language.
- (3) An administrative body shall submit twenty (20) copies of an amendment to an administrative regulation to the regulations compiler prior to the *Administrative Regulation Review* Subcommittee meeting at which the amendment will be considered.

Section 18. KRS 158.6471 is amended to read as follows:

- (1) Within forty-five (45) days after publication of an administrative regulation in "The Administrative Register" or within *sixty (60)*~~forty-five (45)~~ days of the receipt of a statement of consideration, the Education Assessment and Accountability Review Subcommittee shall meet to review the administrative regulation.
- (2) The meetings shall be open to the public.
- (3) Public notice of the time, date, and place of the subcommittee meeting shall be given in The Administrative Register.
- (4) A representative of the Department of Education shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the Department of Education is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.
- (5) Following the meeting and before the next regularly scheduled meeting of the Legislative Research Commission, the subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has reviewed. One (1) copy shall be sent to the Department of Education. The subcommittee's findings shall be published in The Administrative Register.

- (6) (a) After review by the subcommittee, the Commission shall at its next regularly scheduled meeting assign the matter as appropriate to the Interim Joint Committee on Education, the Senate standing Education Committee, the House standing Education Committee, or the Senate and the House standing committees meeting jointly.
- (b) Upon notification of the assignment by the Commission, the Education Committee shall notify the regulations compiler:
 - 1. Of the date, time, and place of the meeting at which it will consider the matter; or
 - 2. That it will not meet to consider the matter.
- (7) Within thirty (30) days of the assignment, the Education Committee, when it plans to consider an administrative regulation, shall hold a public meeting during which the regulation shall be reviewed. If the thirtieth day of the assignment falls on a Saturday, Sunday, or holiday, the deadline for review shall be the workday following the Saturday, Sunday, or holiday. The committee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3). Notice of the time, date, and place of the meeting shall be placed in the legislative calendar.
- (8) The Department of Education shall comply with subsection (4) of this section.
- (9) The Education Committee shall be empowered to make the same nonbinding determinations and to exercise the same authority as the *Administrative Regulation Review* Subcommittee~~[as provided in KRS 13A.030(2) and (3)]~~.
- (10) (a) Upon adjournment of the meeting at which the Education Committee has considered an administrative regulation pursuant to subsection (7) of this section, the committee shall inform the regulations compiler of its findings, recommendations, or other action taken on the administrative regulation.
- (b) Following the meeting and before the next regularly scheduled meeting of the Commission, the committee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. One (1) copy shall be sent to the Department of Education. The committee's findings shall be published in The Administrative Register.

Section 19. KRS 194B.050 is amended to read as follows:

- (1) The secretary shall formulate, promote, establish, and execute policies, plans, and programs and shall~~[adopt,]~~ administer~~[,]~~ and enforce throughout the Commonwealth all applicable state laws and *promulgate* all administrative regulations *authorized by*~~[necessary under]~~ applicable state laws to protect, develop, and maintain the welfare, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.
- (2) The secretary shall utilize the Council for Families and Children to review and make recommendations on contemplated administrative regulations. No administrative regulations issued under the authority of the cabinet shall be filed with the Legislative Research Commission unless issued under the authority of the secretary, and the secretary shall not delegate this authority.~~[All administrative regulations prepared within the cabinet shall be attested as to form and legality by the Office of the General Counsel.]~~
- (3) Except as otherwise provided by law, the secretary shall have authority to establish by administrative regulation a schedule of reasonable fees, none of which shall exceed one hundred dollars (\$100), to cover the costs of annual inspections of efforts regarding compliance with program standards administered by the cabinet. The balance of the account shall lapse to the general fund at the end of each biennium. Fees shall not be charged for investigation of complaints.

Section 20. KRS 199.420 is amended to read as follows:

- (1) The secretary *may promulgate*~~[shall have the power and authority to adopt, amend, or rescind those]~~ administrative regulations *authorized by statute*~~[that the secretary deems necessary or suitable]~~ for the proper administration of the functions of the cabinet, including qualification for the receipt of federal funds and for

cooperation with other state and federal agencies. ~~[These administrative regulations shall become effective in the manner and at the time prescribed by the secretary.]~~

- (2) In the administration of KRS 199.420 to 199.670, the secretary shall cooperate to the fullest extent possible with any agency of this state or any other state of the United States.
- (3) The secretary is authorized, subject to the provisions of KRS Chapters 12, 18A, 42, 45, and 64, to appoint, fix the compensation, and prescribe the duties and powers of any officers and employees as are necessary in the performance of the secretary's duties under KRS 199.420 to 199.670. All positions shall be filled by persons selected and appointed on a nonpartisan merit basis, in accordance with merit standards established by law. The secretary shall not employ or pay any person who is an officer or committee member of any political party organization. The secretary may delegate to any person so appointed that power and authority as the secretary deems reasonable and proper for the effective administration of KRS 199.420 to 199.670.
- (4) The secretary shall have the power and authority to elect coverage for the workers in the cabinet, under the provisions of KRS Chapter 341, and may elect coverage for these workers under the workers' compensation law of this state. In the event the coverage is elected the payment of contributions under KRS Chapter 341 and premiums under the workers' compensation law shall be deemed a proper cost of administration.
- (5) The salaries and expenses of the secretary and the secretary's staff shall be considered a proper cost of administration and charged to the funds allocated to the Cabinet for Families and Children.

Section 21. The following KRS sections are repealed:

13A.015 Notice of intent to promulgate an administrative regulation -- Public hearing.

13A.016 KRS 13A.015 inapplicable to administrative regulation promulgated only for drafting or format requirements.

13A.017 Consideration of comments from public hearing -- Post-hearing filings or notification.

Section 22. A person who has previously filed the form required by KRS 13A.015(4) with an administrative body shall be deemed to have fulfilled the requirement established by subsection (3) of Section 13 of this Act. Upon the effective date of this Act, the administrative body shall include any such person in the provisions established pursuant to subsection (3) of Section 13 of this Act.

Section 23. (1) Notices of intent filed prior to the effective date of this Act shall expire on the effective date of this Act.

(2) Emergency administrative regulations in effect prior to the effective date of this Act shall remain in effect as provided by subsection (3) of Section 8 of this Act.

Approved March 18, 2003

CHAPTER 90

(SB 213)

AN ACT relating to bill drafting and other legislative records.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

- (1) ***A member of the General Assembly is immune from disclosing in a civil or criminal court proceeding, or in an administrative or legislative proceeding, any communication:***
 - (a) ***Made by the member of the General Assembly to a member of the staff of the Legislative Research Commission, or to a member of the staff of the General Assembly, with regard to a request for legislative drafting of bills or resolutions or amendments thereto or to any information surrounding such a request; or***
 - (b) ***Received from a member of the staff of the Legislative Research Commission, or from a member of the staff of the General Assembly, with regard to a request for legislative drafting of bills or resolutions or amendments thereto or to any information surrounding such a request.***

- (2) *A member of the staff of the Legislative Research Commission or a member of the staff of the General Assembly is immune from disclosing in a civil or criminal court proceeding, or in an administrative or legislative proceeding, any communications:*
- (a) *Made to him or her by a member of the General Assembly with regard to a request for legislative drafting of bills or resolutions or amendments thereto or to any information surrounding such a request; or*
 - (b) *Made to a member of the General Assembly with regard to a request for legislative drafting of bills or resolutions or amendments thereto or to any information surrounding such a request.*
- (3) *This section shall not apply to a criminal court proceeding in which a member of the General Assembly, a member of the staff of the Legislative Research Commission, or a member of the staff of the General Assembly is the subject of the proceeding, and a subpoena has been issued for the communication or related information.*
- (4) *The communications referenced in this section or documents related thereto are not subject to subpoena, deposition, writ of mandamus, interrogatory, or other disclosure.*
- (5) *Any order or subpoena purporting to compel testimony or the production of evidence which is prohibited under this section shall be unenforceable.*
- (6) *This section applies to a former legislator or former member of the staff of the Legislative Research Commission or General Assembly only with regard to communications made or received while a member of the General Assembly or member of the staff of the Legislative Research Commission or General Assembly. For purposes of this section, legislative interns, paid or unpaid, are considered to be members of the staff of the Legislative Research Commission or General Assembly, as applicable.*
- (7) *Records in the custody of the Legislative Research Commission or the General Assembly shall be available for distribution to the public, or open for inspection by any person.*
- (8) *As used in subsection (7) of this section, "records" includes bills and amendments introduced in the Senate or House of Representatives, Senate and House Journals, Acts of the General Assembly, roll call votes, final reports of committees, Kentucky Administrative Regulations, documents showing salary and expenses paid to members of the General Assembly and all employees of the legislative branch, contracts, receipts and work orders for repairs or renovations to legislative offices or facilities, items cataloged in the legislative library, the Legislative Record, and informational and educational materials offered by the public information office, including legislative videotapes and photographs, calendars, and meeting notices.*
- (9) *Requests for records or other documents in the custody of the Legislative Research Commission or the General Assembly shall be directed to the director of the Legislative Research Commission. Except for KRS 61.880(3), provisions of the Open Records Act, KRS 61.870 to 61.884, shall apply to a request for inspection or copies of documents or other items not set forth in subsection (8) of this section, and except that a request for a review under KRS 61.880 of any determination by the director shall be made to the Legislative Research Commission, which shall issue its decision within thirty (30) days. If the Legislative Research Commission does not issue its decision on a review of the director's determination within thirty (30) days of submission to it of the matter, the director's determination may be appealed to the Franklin Circuit Court within sixty (60) days of its issuance. For purposes of this subsection, any reference to the Attorney General in KRS 61.880 and 61.882 shall be read as the Legislative Research Commission.*

Approved March 18, 2003

CHAPTER 91

(HB 54)

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 2002-759, dated July 1, 2002, which transfers ownership responsibility and building management for facilities in Ashland, Jackson, Louisville, Owensboro

and Richmond from the Cabinet for Families and Children to the Department for Facilities Management in the Finance and Administration Cabinet, including personnel and equipment associated with those facilities.

Approved March 18, 2003

CHAPTER 92

(HB 136)

AN ACT relating to independent candidates for office.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

- (1) *An independent candidate required to file nomination papers pursuant to subsection (5) of Section 2 of this Act shall be required to file a statement-of-candidacy form with the same office at which nomination papers are filed. The statement-of-candidacy form shall be filed not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than April 1 preceding the day fixed by law for holding of general elections for the offices sought. If the office in which the statement-of-candidacy form is to be filed is closed on April 1, the form may be filed on the next business day. The statement-of-candidacy form shall be filed no later than 4 p.m. local time when filed on the last day on which papers are permitted to be filed. No person shall file a statement-of-candidacy form for more than one (1) public office during an election cycle.***
- (2) *The statement-of-candidacy form shall be prescribed by the State Board of Elections. The statement-of-candidacy form shall be signed by the candidate upon filing. No charge shall be assessed for the filing of a statement-of-candidacy form. The Secretary of State and county clerks shall examine the statement-of-candidacy form of each candidate who files the form to determine if there is an error. If an error has occurred, the candidate shall be notified by certified mail within twenty-four (24) hours.***

Section 2. KRS 118.365 is amended to read as follows:

- (1) Certificates of nomination issued by the State Board of Elections shall be filed by that board with the Secretary of State immediately. The certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.**
- (2) Petitions of nomination for candidates for city offices except as provided in KRS 83A.047, for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts shall be filed with the county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of regular elections for the offices sought.**
- (3) Candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of President and Vice President of the United States, shall file the statements required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August preceding the regular election for the office sought.**
- (4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but whose candidate received two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and 118.325, shall be filed as required with the Secretary of State or county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the election of the person in nomination.**
- (5) Except as otherwise provided in this section, petitions of nomination shall be filed as required with the Secretary of State or county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of general elections for the offices sought. Certificates of nomination shall be filed with the Secretary of State or county clerk, as required by law, not earlier than the**

first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of general elections for the offices sought. ***The filing of petitions of nominations for independent candidates shall not be accepted by the Secretary of State or the county clerk, if the candidate has not filed a statement-of-candidacy form as required by Section 1 of this Act.***

- (6) Petitions and certificates of nomination for electors of President and Vice President of the United States shall be filed with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which there is an election for President and Vice President of the United States and not later than the first Tuesday in September preceding the date fixed by law for the election of the electors.
- (7) Petitions for recall elections or elections on public questions shall be filed as required with the county clerk not later than the second Tuesday in August preceding the day fixed by law for holding a general election.
- (8) Petitions of any kind named in this section, statements, and certificates of nomination shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

Approved March 18, 2003

CHAPTER 93

(HB 144)

AN ACT relating to parking citation enforcement.

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

Section 1. KRS 82.600 is amended to read as follows:

As used in KRS 82.605 to 82.640 unless the context otherwise requires:

- (1) "Local government" means a city of ***any class, a consolidated local government***, ~~the first four (4) classes~~ or an urban-county government;
- (2) "Hearing board" means a body established by ordinance and empowered to conduct hearings pursuant to KRS 82.605 to 82.640; and shall be composed of one (1) or more persons appointed in the manner provided by ordinance; and also means any hearing officer or officers appointed by the board. Any action of such hearing officer shall be deemed to be the action of the board; and
- (3) "Parking ordinance" means an ordinance regulating parking, standing, or stopping upon the public streets or ways within the local government.

Approved March 18, 2003

CHAPTER 94

(HB 154)

AN ACT relating to mobile telephone use.

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:

No city, county, urban-county, charter county, consolidated local government, or special district shall impose a restriction on the use of a mobile telephone in a motor vehicle.

Approved March 18, 2003

CHAPTER 95**(HB 211)**

AN ACT relating to unclaimed property.

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

Section 1. KRS 393.010 is amended to read as follows:

- (1) As used in this chapter, unless the context requires otherwise:
 - (a) "Banking organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, or a private banker engaged in business in this state;
 - (b) "Business association" means any corporation, joint stock company, business trust, partnership, or any association for business purposes of two (2) or more individuals;
 - (c) "Financial organization" means any savings and loan association, building and loan association, credit union, cooperative bank, or investment company, engaged in business in this state;
 - (d) "Life insurance corporation" means any corporation or association transacting within this state the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities;
 - (e) "Claim" means to demand payment or surrender of property from the person whose duty it is to pay the claimant, or surrender to him the property involved;
 - (f) "Treasurer" means the State Treasurer;
 - (g) "Department" means the Department of the Treasury;
 - (h) "Person" means any individual, state or national bank, partnership, joint stock company, business, trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent; **and**
 - (i) ***"Abandoned property fund" means the fund in which moneys are placed that are paid to the department pursuant to this chapter.***
- (2) This chapter does not apply to money, funds, or any other property held by or owing to any nonprofit, Internal Revenue Code Section 501(c)(3), tax-exempt hospital, or to bonds of counties, cities, school districts, or other tax-levying subdivisions of this state or to any money, funds, or other intangible property at any time held or owing for any minerals or other raw materials capable of being used for fuel in the course of manufacturing, processing, production, or mining, ***or to wages or salaries of fifty dollars (\$50) or less that are not claimed by an employee within one (1) year of the date the wages or salaries were earned.*** The provisions of this subsection shall be effective retroactively to all such moneys, funds, or other intangible property held or owing by any person on June 1, 1960, or thereafter.

Section 2. KRS 393.110 is amended to read as follows:

- (1) A holder of property presumed abandoned shall make an annual report to the department concerning the property. The report shall be filed on or before November 1 of each year and shall cover the twelve (12) months ending on July 1 of that year. All property so reported shall be turned over by November 1 to the department. The report shall be verified and shall include:
 - (a) Except with respect to travelers' checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of one hundred dollars (\$100) or more presumed abandoned under this chapter and in the case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his last known address according to the records of the life insurance corporation;
 - (b) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under one hundred dollars (\$100) each may be reported in the aggregate. The holder of abandoned property shall maintain its records for a period of five (5) years from the date of its report for items reported in the aggregate. If the owner of property reported in

the aggregate makes a valid claim within five (5) years, the holder shall refund the property and deduct the amount refunded from the next report due to the department;

- (c) The date when the property became payable, demandable, or returnable, and the date of the last known transaction with the owner with respect to the property if readily available; and
- (d) Any other information which the department prescribes by administrative regulations necessary for the administration of this chapter.

The report shall be *retained by the department. The department shall publish, in accordance with KRS Chapter 424, an annual advertisement listing the names of persons included in the report*~~made in duplicate; the original shall be retained by the department, and the copy shall be mailed to the sheriff of the county where the property is located or held. It shall be the duty of the sheriff to post for not less than twenty (20) consecutive days this copy on the courthouse door or the courthouse bulletin board, and also to publish the copy pursuant to KRS Chapter 424; except the sheriff shall not be required to publish any item with a fair cash value of one hundred dollars (\$100) or less. The list shall be published within thirty (30) days of its receipt by the sheriff and this publication shall constitute compliance with the requirements of KRS Chapter 424.~~ The cost of the publication shall be paid by the state.~~[The sheriff shall immediately certify in writing to the department the dates when the list was posted and published.]~~ The list shall be ~~posted and~~ published as required on or before October 1 *following*~~off~~ the year when it is made, and the ~~posting and~~ publishing shall be constructive notice to all interested parties.

- (2) The holder of property presumed abandoned shall send written notice to the apparent owner, not more than one hundred twenty (120) days or less than sixty (60) days before filing the report, stating that the holder is in possession of the property subject to this section; except the holder shall not be required to mail a notice to any apparent owner where the fair cash value of the property is one hundred dollars (\$100) or less. The notice shall contain:
 - (a) A statement that according to a report filed with the department properties are being held to which the addressee appears entitled;
 - (b) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder; and
 - (c) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the department to whom all further claims must be directed.
- (3) Any person who has made a report of any estate or property presumed abandoned, as required by this chapter, shall, by November 1 of each year, turn over to the department all property so reported; but if the person making the report or the owner of the property shall certify to the department that any or all of the statutory conditions necessary to create a presumption of abandonment no longer exist or never did exist, or shall report the existence of any fact or circumstance which has a substantial tendency to rebut the presumption, then, the person reporting or holding the property shall not be required to turn the property over to the department except on order of court. If a person files an action in court claiming any property which has been reported under the provisions of this chapter, the person reporting or holding the property shall be under no duty while the action is pending to turn the property over to the department, but shall have the duty of notifying the department of the pendency of the action.
- (4) The person reporting or holding the property or any claimant of it shall always have the right to a judicial determination of his rights under this chapter, and nothing in this chapter shall be construed otherwise. The Commonwealth may institute an action to recover the property presumed abandoned, whether it has been reported or not, and may include in one (1) petition all the property within the jurisdiction of the court in which the action is brought if the property of different persons is set out in separate paragraphs.

Section 3. KRS 393.160 is amended to read as follows:

Any person dissatisfied with the decision of the State Treasurer *or whose claim has not been acted upon within ninety (90) days after its filing may request in writing an administrative hearing that shall be conducted in accordance with the provisions of KRS Chapter 13B*~~may, within sixty (60) days, appeal from it to the Franklin Circuit Court or file an action in that court to vacate the decision. In either event the proceedings shall be de novo, and no transcript of the record before the State Treasurer shall be required to be kept unless requested by the~~

~~claimant. In the proceeding the State Treasurer shall be made a party defendant, and all other persons required by law to be made parties in actions in rem or quasi in rem shall be made parties. Any party adversely affected by the decision of the Franklin Circuit Court may appeal to the Court of Appeals in accordance with the Rules of Civil Procedure. Upon an appeal the state shall not be required to make a supersedeas bond. The provisions of this section relating to the decision of the State Treasurer and appeals therefrom shall also apply to a decision of the State Treasurer rendered under authority of KRS 393.110].~~

Section 4. KRS 393.250 is amended to read as follows:

- (1) Any necessary expense required to be paid by the state in administering and enforcing this chapter shall be paid out of the abandoned property ~~fund~~~~{receipts}~~.
- (2) The county attorney shall act as agent of the department for the collection of all judgments recovered in actions prosecuted by him under this chapter. He shall promptly remit the judgment recovered to the department with the information relating thereto as the department requires.

Section 5. KRS 393.280 is amended to read as follows:

- (1) The department, through its employees, may at reasonable times and upon reasonable notice examine all relevant records of any person except any banking organization or financial organization where there is reason to believe that there has been or is a failure to report property that should be reported under this chapter during the preceding reporting period. Records shall be considered relevant to the examination of the preceding reporting period if they document the period necessary, for that type of property, to establish presumed abandonment.
- (2) The Department of Financial Institutions may at reasonable times and upon reasonable notice examine all relevant records of any banking organization or financial organization if there is reason to believe that there has been or is a failure to report property that should be reported under this chapter during the preceding reporting period.
- (3) Documents and working papers obtained or compiled by the department or the Department of Financial Institutions in the course of conducting an examination are confidential and are not open records under KRS 61.870 to 61.884.
- (4) The State Treasurer may promulgate *administrative regulations pursuant to KRS Chapter 13A* and any reasonable and necessary rules for the enforcement of this chapter, and govern hearings held before him. He may delegate in writing to any~~{regular}~~ employee of the department authority to perform any of the duties imposed on him by this chapter, except the promulgation of rules.

SECTION 6. A NEW SECTION OF KRS CHAPTER 393 IS CREATED TO READ AS FOLLOWS:

Unclaimed property payable or distributable in the course of a demutalization of an insurance company is presumed abandoned three (3) years after the earlier of the date of the last contact with the policyholder or the date the property became payable or distributable.

Section 7. KRS 393.020 is amended to read as follows:

If any property having a situs in this state has been devised or bequeathed to any person and is not claimed by that person or by his heirs, distributees, or devisees within ***three (3)***~~{seven (7)}~~ years after the death of the testator, or if the owner of any property having a situs in this state dies without heirs or distributees entitled to it and without disposing of it by will, it shall vest in the state, subject to all legal and equitable demands. Any property abandoned by the owner, except a perfect title to a corporeal hereditament, shall vest in the state, subject to all legal and equitable demands. Any property that vests in the state under this section shall be liquidated, and the proceeds, less costs, fees, and expenses incidental to all legal proceedings of the liquidation shall be paid to the department.

Section 8. KRS 393.062 is amended to read as follows:

- (1) "Unclaimed funds," as used in this section, means all moneys held and owing by any life insurance corporation unclaimed and unpaid for more than ***three (3)***~~{seven (7)}~~ years after the moneys became due and payable as established from the records of the corporation under any contract which has matured or terminated. A life insurance policy not matured by actual proof of the death of the insured is deemed to be matured and the proceeds thereof are deemed to be due and payable if such policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based, unless the person appearing entitled thereto has within the preceding ***three (3)***~~{seven (7)}~~ years, (a) assigned, readjusted, or paid premiums on the policy, or subjected the policy to loan, or (b) corresponded in writing with the life insurance corporation

concerning the policy. Moneys otherwise payable according to the records of the corporation are deemed due and payable although the policy or contract has not been surrendered as required.

- (2) Unclaimed funds, as defined in this section, held and owing by a life insurance corporation shall be presumed abandoned if the last known address, according to the records of the corporation, of the person entitled to the funds is within this state. If a person other than the insured or annuitant is entitled to the funds and no address of such person is known to the corporation or if it is not definite and certain from the records of the corporation what person is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of corporation.

Section 9. KRS 393.064 is amended to read as follows:

Except as provided in KRS 272.291, any stock or other certificate of ownership, or any dividend, profit, distribution, interest, payment, or principal, or other sum held or owing by a business association for or to a shareholder, certificate holder, member, bondholder, or other security holder, or a participating patron of a cooperative, who has not claimed it, or corresponded in writing with the business association concerning it, within **three (3)**~~seven (7)~~ years after the date prescribed for payment or delivery, is presumed abandoned if:

- (1) It is held or owing by a business association organized under the laws of or created in this state; or
- (2) It is held or owing by a business association doing business in this state, but not organized under the laws of or created in this state, and the records of the business association indicate that the last known address of the person entitled thereto is in this state.

Section 10. KRS 393.066 is amended to read as follows:

All intangible personal property and any income or increment thereon, held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner has, within **three (3)**~~seven (7)~~ years after it becomes payable or distributable, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary:

- (1) If the property is held by a banking organization or a financial organization, or by a business association organized under the laws of or created in this state; or
- (2) If it is held by a business association doing business in this state, or any agent or fiduciary acting for or under contract with a business association doing business in this state, but not organized under the laws of or created in this state, and the records of the business association indicate that the last known address of the person entitled thereto is in this state; or
- (3) If it is held in this state by any other person.

Section 11. KRS 393.080 is amended to read as follows:

The following funds held or owing are presumed abandoned:

- (1) Any deposit of money, stocks, bonds, or other credits made to secure payment for services rendered or to be rendered, or to guarantee the performance of services or duties, or to protect against damage or harm, and the increments thereof, unless claimed by the person entitled thereto within **three (3)**~~seven (7)~~ years after the occurrence of the event that would obligate the holder or depository to return it or its equivalent.
- (2) Except as provided in KRS 272.291, any sum which a public utility has been ordered to refund and which was received for utility services rendered in this state, together with any interest thereon, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than **three (3)**~~seven (7)~~ years after the date it became payable in accordance with the final determination or order providing for the refund.
- (3) If there remains a total of one million dollars (\$1,000,000) or more in unclaimed sums one (1) year after a public utility refund became payable in accordance with the final determination or order providing for the refund, excepting sums that may eventually be claimed pursuant to KRS 272.291, and less any lawful deductions, the Finance and Administration Cabinet shall enter into an agreement or agreements with the public utility that will allow the public utility to pay the unclaimed sums, minus the exceptions noted above, to the Kentucky State Treasurer immediately if the Attorney General determines by written opinion that a reasonable relationship exists between the source of and reason for the refund, and the workers' compensation

liability of a bankrupt employer who purportedly was self-insured, either individually or through a self-insurance group, under KRS Chapter 342. Payment of the unclaimed sums to the Kentucky State Treasurer shall constitute a complete release of the public utility from any further responsibility for the sums so paid, and from liability to any person who may have a claim to any of such sums.

- (4) The Kentucky Workers' Compensation Funding Commission shall preserve the rights of persons or ratepayers entitled to claim a refund under this section, and may utilize any funds available to the agency for the purpose of preserving those rights.

Section 12. KRS 393.090 is amended to read as follows:

Except as otherwise provided in KRS 393.010, all intangible property, not otherwise covered by this chapter, including any income or increment thereon and deducting any lawful charges, that is held or owing in this state by any person and has remained unclaimed by the owner for more than ~~three (3)~~~~seven (7)~~ years after it became payable or distributable is presumed abandoned.

Approved March 18, 2003

CHAPTER 96

(HB 234)

AN ACT relating to traffic regulations.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"Appurtenances" means the following devices that do not extend beyond six (6) inches on either side of a travel trailer:*

1. *Hand holds for entry or egress;*
2. *Load-induced tire bulge;*
3. *Rearview mirrors;*
4. *Splash and spray suppressant devices; and*
5. *Turn signal lamps;*

(b) *"Recreational vehicle" has the meaning set forth in KRS 186.650(4); and*

(c) *"Width exclusion safety devices" means the following devices that do not extend beyond three (3) inches on either side of a travel trailer:*

1. *Corner caps;*
2. *Lift pads;*
3. *Rear or side door hinges and protective hardware;*
4. *Rain gutters;*
5. *Side marker lamps;*
6. *Tarps and tarp hardware; and*
7. *Wall variations from a true flat.*

- (2) *A recreational vehicle that is one hundred two (102) inches in width and is registered under KRS 186.050, 186.655, or an equivalent statute from another state shall have access to any public state-maintained highway in Kentucky and the vehicle's appurtenances and width exclusion safety devices shall not exceed the limits defined in this section. A recreational vehicle shall not exceed established weight limits on Kentucky highways without first obtaining an overweight permit issued under this chapter.*

Approved March 18, 2003

CHAPTER 97

(HB 245)

AN ACT relating to the titling of motor vehicles.

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

Section 1. KRS 186A.115 is amended to read as follows:

- (1) Except as otherwise provided in this section, the owner of every vehicle brought into this state and required to be titled in this state shall, before submitting his application for title to the county clerk, have the vehicle together with his application for title and its supporting documents inspected by a certified inspector in the county in which the application for title is to be submitted to the county clerk.
 - (a) The certified inspector shall be certified through the Department of Vehicle Regulation following requirements set forth by the department by regulation and shall be designated by the county sheriff. The certified inspector will be held responsible for all certifications required pursuant to this chapter and will be liable for any and all penalties prescribed in this chapter, and shall be available during regular office hours at any and all offices and branches that issue applications for titles.
 - (b) There shall be a five dollar (\$5) fee for this certification, payable to the sheriff's office, upon completion of certification.
 - (c) There shall be an additional fee of ten dollars (\$10) per trip when it becomes necessary for the certified inspector to travel to the site of the vehicle rather than bringing the vehicle to the sheriff's inspection area.
 - (d) An inspection conducted in one (1) county within the Commonwealth of Kentucky under this subsection, and the fees paid for that inspection under this subsection, shall be honored by the certified inspector, sheriff, and county clerk in all other counties within this state. A second inspection shall not be required and additional fees shall not be required.
- (2) The following vehicles are excluded from the requirement of inspection by a certified inspector prior to titling in this state:
 - (a) New motor vehicles sold by a dealer licensed in this state;
 - (b) Vehicles required to be registered in this state by reason of lack of a reciprocity agreement with another state and for which a nonnegotiable registration document is to be issued;
 - (c) Motor vehicles operated by a motor carrier under a nonnegotiable certificate or permit issued by the Department of Vehicle Regulation;
 - (d) Motor vehicles owned by servicemen or servicewomen who are residents of Kentucky stationed outside of Kentucky may be inspected by the post provost or similar officer of the camp, post, or station. The post provost or similar officer shall submit an affidavit stating the name of the owner, the identification or serial number, the make, body style, current license or title number, if any, and state in which currently registered or titled, if any, of the motor vehicle;~~and~~
 - (e) *Motor vehicles purchased in another state by persons who are residents of Kentucky but are temporarily residing out of state for at least thirty (30) days, but not longer than nine (9) months, may after the purchase of the vehicle be inspected by the state police, a local law enforcement agency, or the vehicle inspection program of another state. If an inspector in another state examines a vehicle under this paragraph, the purchaser may request the inspector to complete an affidavit stating the name of the owner, the vehicle identification number, the vehicle make and body style, the current state of registration, if any, and the current vehicle license or title number, if any. The Transportation Cabinet shall create an affidavit form containing at a minimum this information and shall post the form on the cabinet's Internet web site. A person using an inspector in another state under this paragraph shall comply with all requirements of that state's inspection program, including payment of fees charged in that state. A person registering a motor vehicle for the first time in Kentucky under this paragraph shall transmit the application for registration, all supporting documentation, and payment for registration and usage tax to the county clerk of the county in*

which the person resides, and upon receipt of the appropriate documentation, the county clerk shall register the vehicle; and

- (f) Motor vehicles no longer located in Kentucky but which require inspection in order to issue a corrected Kentucky title due to error in vehicle identification or serial number may be inspected by an inspector authorized to inspect vehicle identification or serial number by the laws of the state or foreign country where application for a new title has been submitted.
- (3) When presented to a certified inspector for inspection or to a county clerk for processing, the owner's application for a first certificate of registration or title in his name shall be accompanied by proof of insurance in compliance with KRS 304.39-080 and one (1) of the following documents as applicable:
 - (a) If the vehicle is a new vehicle not previously registered in this state, the properly assigned manufacturer's statement of origin for the vehicle for which registration or title is sought;
 - (b) If the vehicle was last registered in this state, and is a vehicle for which a title is not required in this state, a certificate of registration, or if the vehicle is one for which a certificate of title is required in this state, a properly assigned certificate of title;
 - (c) If the vehicle was last previously titled in another state, a properly assigned certificate of title;
 - (d) If the application refers to a vehicle previously registered in another country, the documents of that country establishing ownership of the vehicle;
 - (e) If the application refers to a vehicle last previously registered in another country by a person on active duty in the Armed Forces of the United States, the county clerk may accept on behalf of the Department of Vehicle Regulation evidence of ownership provided the applicant by the United States Department of Defense; and
 - (f) ***Except as provided in subsection (2)(c) of Section 2 of this Act governing custom-built motorcycles***, if the application relates to a vehicle which has been specially constructed or reconstructed, that fact shall be stated in the application, and the application shall be accompanied by ~~the~~~~[such]~~ documents~~[-as are]~~ specified by administrative regulations of the Department of Vehicle Regulation.
- (4) When requested to inspect a vehicle pursuant to this section, the certified inspector shall personally and physically inspect the vehicle, when registration or title is sought in this state, on the following points:
 - (a) He shall ensure that the application is legible and properly executed to the extent required at the time of execution;
 - (b) He shall compare the vehicle identification number as appearing on both the vehicle identification number plate, and the federal safety standards label of the vehicle which is sought to be registered or titled, with the corresponding number inscribed on the application, and its supporting documentation, and ensure that the vehicle identification number appearing at each described location appears legitimate and that they are consistent with each other;
 - (c) He shall examine the primary odometer of the vehicle and legibly record the reading in the space provided in the inspection section of the application; and
 - (d) After exercising due diligence in inspecting the vehicle, the application, and its supporting documentation, and finding that they appear to be in order, the certified inspector shall execute the preprinted certificate of inspection according to its terms by printing in the spaces provided his first name, middle initial, and last name, and his title; the name of the county in which he serves; and the telephone number including the telephone area code of his agency, and sign in ink his signature in the space provided, and print the month, day, and year in which his inspection was made, certifying under penalty of forgery in the second degree the character, accuracy, and date of his inspection.
- (5) The certified inspector shall refrain from executing the certificate of inspection if:
 - (a) He has not personally and physically inspected the vehicle in accordance with this section;
 - (b) He has reason to believe that the vehicle displays an unlawfully altered vehicle identification number;
 - (c) The application and any of its copies are illegible or otherwise improperly executed, or contain information reasonably believed to be inaccurate or fraudulent;

- (d) The documentation required in support of any application is not present, or not consistent with the vehicle and the owner's application or appears fraudulent; or
- (e) He has probable cause to believe the vehicle is stolen.

SECTION 2. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

- (1) *As used in Sections 1 and 2 of this Act, "custom-built motorcycle" means a motorcycle as defined in KRS 186.010(15) that has been built from one hundred percent (100%) new parts to the individual specifications of:*
 - (a) *The individual who built the motorcycle who will personally use the motorcycle;*
 - (b) *A specific known prospective owner of the motorcycle who is purchasing the motorcycle at retail; or*
 - (c) *A person engaged in the business of building and selling motorcycles who is building the motorcycle for purposes of retail sale to an unknown buyer.*
- (2) *A person who has either personally custom-built a motorcycle or who has purchased a custom-built motorcycle shall be issued a first certificate of title after complying with the provisions of this subsection. The person shall, prior to applying for the certificate of title, apply to the Transportation Cabinet for a vehicle identification number under the provisions of KRS 186A.090. When applying for a first certificate of title for a custom-built motorcycle, the person shall apply in the office of the county clerk of the county in which he or she resides and provide the clerk with the following:*
 - (a) *Written documentation authenticating that one hundred percent (100%) of the parts used to assemble the custom-built motorcycle are new parts purchased from either a wholesale or retail supplier that have never been used;*
 - (b) *Proof of insurance to comply with the provisions of KRS 304.39-080; and*
 - (c) *Other information that may be required by the Transportation Cabinet in an administrative regulation promulgated under KRS Chapter 13A. If the cabinet fails to promulgate an administrative regulation governing custom-built motorcycles, the only documentation a person applying for a first certificate of title for a custom-built motorcycle shall be required to present to the county clerk is the information required under paragraphs (a) and (b) of this subsection.*
- (3) *The Transportation Cabinet shall not classify a custom-built motorcycle as a salvage or rebuilt vehicle and shall not subject a custom-built motorcycle to the provisions of this chapter governing salvage or rebuilt vehicles.*

Section 3. KRS 186A.520 is amended to read as follows:

- (1) Except as provided in KRS 186A.555, a salvage title shall be obtained by the owner of a motor vehicle that meets the following definition of a salvage vehicle:
 - (a) A vehicle which has been wrecked, destroyed, or damaged, to the extent that the total estimated or actual cost of parts and labor to rebuild or reconstruct the vehicle to its preaccident condition and for legal operation on the roads or highways exceeds seventy-five percent (75%) of the retail value of the vehicle, as set forth in a current edition of the National Automobile Dealer's Association price guide.
 - (b) The value of repair parts for purposes of this definition shall be determined by using the current published retail cost of the parts equal in kind and quality to the parts to be replaced or the actual retail cost of the repair parts used in repair.
 - (c) The labor costs of repairs for purposes of this section shall be computed by using the hourly labor rate and time allocations which are reasonable and customary in the automobile repair industry in the community where the repairs are performed.
- (2) The owner or an authorized agent of a motor vehicle that meets the definition of a salvage vehicle as set forth in subsection (1) of this section shall, within fifteen (15) days from the **receipt of all necessary paperwork required by this chapter** ~~loss or settlement of the loss~~, submit an application to the county clerk, on a form prescribed by the Department of Vehicle Regulation, for a salvage title, accompanied by a properly endorsed certificate of title and any lien satisfactions, if any appear, as may be required.

- (3) The county clerk shall retain a copy of each salvage title application received and shall forward the original and its supporting documents to the Department of Vehicle Regulation in a manner similar to that for handling of an application for a title.
- (4) The Department of Vehicle Regulation shall process the salvage title application in a manner similar to that used in processing a title application and the salvage title shall be delivered in a like manner of a title. Salvage titles shall be construed as proof of ownership of a vehicle in a state as to be unusable upon the highways of the Commonwealth. A vehicle shall not be issued a registration for highway use as long as a salvage title is in force.
- (5) The only time a vehicle with a salvage title may be operated upon the highways of the Commonwealth is when it is in route to or from an inspection by the certified inspector prior to obtaining a certificate of title after having been rebuilt as per KRS 186.115.

Approved March 18, 2003

CHAPTER 98

(HB 296)

AN ACT relating to alternative project delivery methods for capital projects.

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

Section 1. KRS 45A.030 is amended to read as follows:

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

- (1) "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted;
- (2) "Change order" means a written order signed by the purchasing officer, directing the contractor to make changes that the changes clause of the contract authorizes the purchasing officer to order without the consent of the contractor;
- (3) "Chief purchasing officer" means the secretary of the Finance and Administration Cabinet, who shall be responsible for all procurement of the Commonwealth except as provided by KRS Chapters 175, 176, 177, and 180;
- (4) "Construction" means the process of building, altering, repairing, improving, or demolishing any public structures or buildings, or other public improvements of any kind to any public real property. It does not include the routine maintenance of existing structures, buildings, or real property;
- (5) ***"Construction manager-agency" means services to assist the purchasing agency manage construction that are procured through a contract that is qualifications-based.***
- (6) ***"Construction management-at-risk" means a project delivery method in which the purchasing officer enters into a single contract with an offeror that assumes the risk for construction at a contracted guaranteed maximum price as a general contractor, and provides consultation and collaboration regarding the construction during and after design of a capital project. The contract shall be subject to the bonding requirements of KRS 45A.190.***
- (7) "Contract" means all types of state agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item. It includes awards; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; purchase orders; and insurance contracts except as provided in KRS 45A.022. It includes supplemental agreements with respect to any of the foregoing;
- ~~(8)(6)~~ "Contract modification" means any written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract, whether accomplished by unilateral action in accordance with a contract provision or by mutual action of the parties to the contract. It includes bilateral actions, such as supplemental agreements, and unilateral actions, such as change orders, administrative changes, notices of termination, and notices of the exercise of a contract option;
- ~~(9)(7)~~ "Contractor" means any person having a contract with a governmental body;

- (10)~~(8)~~ "Data" means recorded information, regardless of form or characteristic;
- (11) *"Design-bid-build" means a project delivery method in which the purchasing officer sequentially awards separate contracts, the first for architectural, engineering, or engineering-related services to design the project and the second for construction of the capital project according to the design. The contract shall be subject to the bonding requirements of KRS 45A.185.*
- (12) *"Design-build" means a project delivery method in which the purchasing officer enters into a single contract for design and construction of a capital project. The contract shall be subject to the bonding requirements of KRS 45A.190.*
- (13)~~(9)~~ "Designee" means a duly authorized representative of a person holding a superior position;
- (14)~~(10)~~ "Document" means any physical embodiment of information or ideas, regardless of form or characteristic, including electronic versions thereof;
- (15)~~(11)~~ "Employee" means an individual drawing a salary from a governmental body, whether elected or not, and any nonsalaried individual performing personal services for any governmental body;
- (16)~~(12)~~ "Governmental body" means any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment of the executive or legislative branch of the state government;
- (17)~~(13)~~ "Meeting" means all gatherings of every kind, including video teleconferences;
- (18)~~(14)~~ "Negotiation" means contracting by either the method set forth in KRS 45A.085, 45A.090, or 45A.095;
- (19)~~(15)~~ "Person" means any business, individual, organization, or group of individuals;
- (20)~~(16)~~ "Procurement" means the purchasing, buying, renting, leasing, or otherwise obtaining of any supplies, services, or construction. It includes all functions that pertain to the procurement of any supply, service, or construction item, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration;
- (21)~~(17)~~ "Purchase request" or "purchase requisition" means that document whereby a using agency requests that a contract be obtained for a specified need, and may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation of solicitees, suggested sources of supply, and information supplied for the making of any written determination and finding required by KRS 45A.025;
- (22)~~(18)~~ "Purchasing agency" means any governmental body that is authorized by this code or its implementing administrative regulations or by way of delegation from the chief purchasing officer to contract on its own behalf rather than through the central contracting authority of the chief purchasing officer;
- (23)~~(19)~~ "Purchasing officer" means any person authorized by a governmental body in accordance with procedures prescribed by administrative regulations to enter into and administer contracts and make written determinations and findings with respect thereto. The term includes an authorized representative acting within the limits of authority;
- (24)~~(20)~~ "Services" means the rendering by a contractor of its time and effort rather than the furnishing of a specific end product, other than reports that are merely incidental to the required performance of services;
- (25)~~(21)~~ "Supplemental agreement" means any contract modification that is accomplished by the mutual action of the parties;
- (26)~~(22)~~ "Supplies" means all property, including but not limited to leases of real property, printing, and insurance, except land or a permanent interest in land;
- (27)~~(23)~~ "Using agency" means any governmental body of the state that utilizes any supplies, services, or construction purchased under this code;
- (28)~~(24)~~ "Video teleconference" means one (1) meeting, occurring in two (2) or more locations, where individuals can see and hear each other by means of video and audio equipment; and

~~(29)~~~~(25)~~ "Writing" or "written" means letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.

Section 2. KRS 45A.045 is amended to read as follows:

- (1) The Finance and Administration Cabinet shall serve as the central procurement and contracting agency of the Commonwealth.
 - (a) The cabinet shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. The cabinet shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, prior to the beginning of each fiscal year all agencies shall submit to the Finance and Administration Cabinet an estimate of all needs for supplies, materials, and equipment during that year which will have to be required through competitive bidding.
 - (b) The Finance and Administration Cabinet shall have power, with the approval of the secretary of the Finance and Administration Cabinet, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.
 - (c) The Finance and Administration Cabinet shall attempt in every practicable way to ensure that state agencies are fulfilling their business needs through the application of the best value criteria.
- (2) The Finance and Administration Cabinet shall recommend regulations, rules, and procedures and shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and, subject to the approval of the secretary of the Finance and Administration Cabinet, shall promulgate administrative regulations to govern purchasing by or for all these agencies. The cabinet shall publish a manual of procedures which shall be incorporated by reference as an administrative regulation pursuant to KRS Chapter 13A. This manual shall be distributed to agencies and shall be revised upon issuance of amendments to these procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the Finance and Administration Cabinet or made under general administrative regulations promulgated by the cabinet.
- (3) The Finance and Administration Cabinet shall purchase or otherwise acquire, or, with the approval of the secretary, may delegate and control the purchase and acquisition of the combined requirements of all spending agencies of the state, including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services.
- (4) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of any interest in real property of the state which is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, as determined by the secretary of the Finance and Administration Cabinet. The determination of the secretary of the Finance and Administration Cabinet shall be set forth in an order and shall be reached only after review of a written request by the agency desiring to dispose of the property. This request shall describe the property and state the reasons why the agency believes the property should be disposed. All instruments required by law to be recorded which convey any interest in any real property so disposed of shall be executed and signed by the secretary of the Finance and Administration Cabinet and approved by the Governor. Unless the secretary of the Finance and Administration Cabinet deems it in the best interest of the state to proceed otherwise, all interests in real property shall be sold either by invitation of sealed bids or by public auction. The selling price of any interest in real property shall not be less than the appraised value thereof as determined by the cabinet, or the Transportation Cabinet for the requirements of that cabinet.
- (5) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of all personal property of the state that is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, or, with the approval of the secretary, may delegate the sale, trade, or other disposal of the personal property. In the event the authority is delegated, the method for disposal shall be determined by the agency head, in accordance with administrative regulations promulgated by the Finance and Administration Cabinet, and shall be set forth in a document describing the property and stating the method of disposal and the reasons why the agency believes the property should be disposed of. In the event the authority is not delegated, requests to the Finance and Administration Cabinet to sell, trade, or otherwise dispose of the property shall describe the property and state the reasons why the agency believes the property should be

disposed of. The method for disposal shall be determined by the Division of Surplus Property, and approved by the secretary of the Finance and Administration Cabinet or his or her designee.

- (6) The Finance and Administration Cabinet shall exercise general supervision and control over all warehouses, storerooms, and stores and of all inventories of supplies, services, and construction belonging to the Commonwealth. The cabinet shall promulgate administrative regulations to require agencies to take and maintain inventories of plant property, buildings, structures, other fixed assets, and equipment. The cabinet shall conduct periodic physical audits of inventories.
- (7) The Finance and Administration Cabinet shall establish and maintain programs for the development and use of purchasing specifications and for the inspection, testing, and acceptance of supplies, services, and construction.
- (8) Nothing in this section shall prevent the Finance and Administration Cabinet from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof. No contract executed under this provision shall authorize a price higher than is contained in the contract between the General Services Administration and the vendor affected.
- (9) Except as provided in KRS Chapters 175, 176, 177, and 180, and subject to the provisions of this code, the Finance and Administration Cabinet shall purchase or otherwise acquire all real property determined to be needed for state use, upon approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition. The amount paid for this real property shall not exceed the appraised value as determined by the cabinet or the Transportation Cabinet (for such requirements of that cabinet), or the value set by eminent domain procedure. Subject to the provisions of this code, real property or any interest therein may be purchased, leased, or otherwise acquired from any officer or employee of any agency of the state upon a finding by the Finance and Administration Cabinet, based upon a written application by the head of the agency requesting the purchase, and approved by the secretary of the Finance and Administration Cabinet and the Governor, that the employee has not either himself or herself, or through any other person, influenced or attempted to influence either the agency requesting the acquisition of the property or the Finance and Administration Cabinet in connection with such acquisition. Whenever such an acquisition is consummated, the request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.
- (10) The Finance and Administration Cabinet shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the secretary of the Finance and Administration Cabinet, the Governor, and the General Assembly. The Finance and Administration Cabinet shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities. The Finance and Administration Cabinet shall also compile an annual report of state purchases by all spending agencies in the state's statewide accounting and reporting system. The report format shall include, but not be limited to, dollar amount, volume, type of purchase, and vendor.
- (11) For capital construction projects, subject to the provisions of this code *and Section 7 of this Act*, the ~~procurement[bidding]~~ may be on whichever of the following *alternative project delivery* methods, in the judgment of the secretary of the Finance and Administration Cabinet *after first considering the traditional design-bid-build project delivery method*, offers the *best value* ~~[lowest real cost]~~ to the taxpayer:
 - (a) A *design-build* ~~[total design-bid]~~ basis; or
 - (b) A *construction management-at-risk basis* ~~[package system commonly referred to as "turnkey"]~~;
 - (c) ~~Phase bidding commonly referred to as "fast track"; or~~
 - (d) ~~Construction management~~.

Proposals ~~[Bids]~~ shall be reviewed by the engineering staff to assure quality and value, and compliance with *procurement* ~~[bid]~~ procedures. All specifications shall be written to promote competition. *Nothing in this section shall prohibit the procurement of phased bidding or construction manager-agency services.*

- (12) The Finance and Administration Cabinet shall have control and supervision over all purchases of energy-consuming equipment, supplies, and related equipment purchased or acquired by any agency of the state as provided in this code, and shall promulgate administrative regulations to designate the manner in which an energy-consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products. Major energy components shall be amortized on a seven (7) to ten (10) years' recovery basis

and shall take into consideration the projected cost of fuel. The Finance and Administration Cabinet, in consultation with the Cabinet for Economic Development, shall conduct a thorough economic feasibility analysis on any major energy-using component of at least three million (3,000,000) BTU's per hour heat input and shall issue a certificate of economic feasibility prior to the Finance and Administration Cabinet's purchasing or retrofitting any such component that utilizes any fuel other than coal. The economic feasibility analysis shall consist of life-cycle cost comparisons of a component that would utilize coal and one(s) that would utilize any fuel other than coal. For the analysis, the Finance and Administration Cabinet shall provide detailed estimates of equipment purchase price, installation cost, annual operation and maintenance costs, and usage patterns of energy-using components.

Section 3. KRS 45A.070 is amended to read as follows:

As used in KRS 45A.070 to ~~45A.180~~~~[45A.165]~~, unless the context in which they are used clearly requires a different meaning:

- (1) "Cost-reimbursement contract" means a contract under which the Commonwealth reimburses the contractor for those contract costs, within a stated ceiling, which are allowable and allocable in accordance with cost principles as provided in KRS 45A.215, and a fee, if any.
- (2) "Established catalogue price" means the price included in the most current catalogue, price list, schedule, or other form that:
 - (a) Is regularly maintained by the manufacturer or vendor of an item;
 - (b) Is either published or otherwise available for inspection by customers; and
 - (c) States prices at which sales are currently or were last made to a significant number of buyers constituting the general buying public for that item.
- (3) "Best value" means a procurement in which the decision is based on the primary objective of meeting the specific business requirements and best interests of the Commonwealth. These decisions shall be based on objective and quantifiable criteria that shall include price and that have been communicated to the offerors as set forth in the invitation for bids.
- (4) "Invitation for bids" means all documents, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in KRS 45A.080 of this code.
- (5) "Request for proposals" means all documents, whether attached or incorporated by reference, utilized for soliciting proposals in accordance with the procedures set forth in KRS 45A.085, 45A.090, 45A.095,~~[or]~~ 45A.100, **or Section 7 of this Act.**
- (6) "Responsible bidder or offeror" means a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.
- (7) "Responsive bidder" means a person who has submitted a bid under KRS 45A.080 which conforms in all material respects to the invitation for bids, so that all bidders may stand on equal footing with respect to the method and timeliness of submission and as to the substance of any resulting contract.

Section 4. KRS 45A.075 is amended to read as follows:

Except as otherwise authorized by law, all state contracts shall be awarded by:

- (1) Competitive sealed bidding, pursuant to KRS 45A.080; or
- (2) Competitive negotiation, pursuant to KRS 45A.085 and 45A.090 **or Section 7 of this Act**; or
- (3) Noncompetitive negotiation, pursuant to KRS 45A.095; or
- (4) Small purchase procedures, pursuant to KRS 45A.100.

Section 5. KRS 45A.085 is amended to read as follows:

- (1) When, under administrative regulations promulgated by the secretary **or under Section 7 of this Act**, the purchasing officer determines in writing that the use of competitive sealed bidding is not practicable, and except as provided in KRS 45A.095 and 45A.100, a contract may be awarded by competitive negotiation.
- (2) Adequate public notice of the request for proposals shall be given in the same manner and circumstances as provided in KRS 45A.080(3).

- (3) Contracts *other than contracts for projects utilizing an alternative project delivery method under Section 7 of this Act* may be competitively negotiated when it is determined in writing by the purchasing officer that the bids received by competitive sealed bidding either are unreasonable as to all or part of the requirements, or were not independently reached in open competition, and for which each competitive bidder has been notified of the intention to negotiate and is given reasonable opportunity to negotiate.
- (4) *Contracts for projects utilizing an alternative project delivery method shall be processed in accordance with Section 7 of this Act.*
- (5) The request for proposals shall indicate the relative importance of price and other evaluation factors.
- ~~(6)(5)~~ Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the Commonwealth, taking into consideration price and the evaluation factors set forth in the request for proposals.
- ~~(7)(6)~~ Written or oral discussions shall be conducted with all responsible offerors who submit proposals determined in writing to be reasonably susceptible of being selected for award. Discussions shall not disclose any information derived from proposals submitted by competing offerors. Discussions need not be conducted:
 - (a) With respect to prices, where the prices are fixed by law or administrative regulation, except that consideration shall be given to competitive terms and conditions;
 - (b) Where time of delivery or performance will not permit discussions; or
 - (c) Where it can be clearly demonstrated and documented from the existence of adequate competition or prior experience with the particular supply, service, or construction item, that acceptance of an initial offer without discussion would result in fair and reasonable best value procurement, and the request for proposals notifies all offerors of the possibility that award may be made on the basis of the initial offers.

Section 6. KRS 45A.090 is amended to read as follows:

- (1) In the event that all bids submitted pursuant to competitive sealed bidding under KRS 45A.080 result in bid prices in excess of the funds available for the purchase, and the chief purchasing officer determines in writing:
 - (a) That there are no additional funds available from any source so as to permit an award to the responsive and responsible bidder whose bid offers the best value; and
 - (b) The best interest of the state will not permit the delay attendant to a resolicitation under revised specifications, or for revised quantities, under competitive sealed bidding as provided in KRS 45A.080,
 then a negotiated award may be made as set forth in subsections (2) or (3) of this section.
- (2) Where there is more than one (1) bidder, competitive negotiations pursuant to KRS 45A.085(3) shall be conducted with the three (3) (two (2) if there are only two (2)) bidders determined in writing to be the most responsive and responsible bidders, based on criteria contained in the bid invitation. Such competitive negotiations shall be conducted under the following restrictions:
 - (a) If discussions pertaining to the revision of the specifications or quantities are held with any potential offeror, all other potential offerors shall be afforded an opportunity to take part in such discussions; and
 - (b) A request for proposals, based upon revised specifications or quantities, shall be issued as promptly as possible, shall provide for an expeditious response to the revised requirements, and shall be awarded upon the basis of best value.
- (3) Where, after competitive sealed bidding, it is determined in writing that there is only one (1) responsive and responsible bidder, a noncompetitive negotiated award may be made with such bidder in accordance with KRS 45A.095.

Section 7. KRS 45A.180 is amended to read as follows:

- (1) The secretary of the Finance and Administration Cabinet shall ***promulgate administrative***~~issue~~ regulations ***by October 15, 2003***, providing for as many alternative methods of management of construction contracting as he may determine to be feasible;~~and~~ setting forth criteria to be used in determining which method of management of construction is to be used for a particular project; ***establishing a model process parallel to the selection committee procedures established in 45A.810 for the procurement of alternative project services of***

"construction management-at-risk" and "design-build," and for a "construction manager-agency;" ~~and providing~~~~[granting to the purchasing officer, or the purchasing agency responsible for carrying out the construction project, the discretion to select the appropriate method of construction contracting for a particular project, provided, however,]~~ that the *chief* purchasing officer shall execute and include in the contract file a written statement setting forth the facts *recommending that*~~[which led to the selection of]~~ a particular method of management of construction contracting *be used*~~[in each instance]~~. *The administrative regulations shall include the establishment of:*

- (a) *The relative weighing between qualifications and price; and*
- (b) *The level of stipend, if any, available for the various types of projects.*
- (2) *When a request for proposal for a project utilizing an alternative project delivery method is issued, the contracting body shall transmit a copy of the request for proposal to the Capital Projects and Bond Oversight Committee staff.*
- (3) *Upon issuance of the contract for a project utilizing an alternative project delivery method, the contracting body shall submit the contract to the Government Contract Review Committee for review in accordance with KRS 45A.690 to 45A.725. The contracting body shall insure the contract clearly identifies to the committee that an alternative project delivery method is being utilized. Upon disapproval of or objection to the contract by the committee, the contracting body shall determine whether the contract shall be revised to comply with the objections of the committee, be canceled, or remain in effect. Subsequent contract amendments relating to change orders shall not be required to be submitted to the Government Contract Review Committee.*
- (4) *A request for proposal for a project utilizing an alternative project delivery method under this section shall specifically state the evaluation factors and the relative weight of each to be used in the scoring of awards.*
- (5) *Any governing body of a postsecondary institution that manages its capital construction program under Section 17 of this Act shall adhere to the regulations promulgated under this section when utilizing an alternative project delivery method for capital projects, and shall report to legislative committees as specified in this section.*
- (6) *Any corporation as described by KRS 45.750(2)(c) or as created under the Kentucky Revised Statutes as a governmental agency and instrumentality of the Commonwealth that manages its capital construction program shall adhere to the regulations promulgated under this section when utilizing an alternative project delivery method for capital projects, and shall report to legislative committees as specified in this section.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

When a capital project is to be constructed utilizing the design-build construction method in accordance with Section 7 of this Act, the percentage of scoring to be attributed to the guaranteed maximum price shall be stated in the request for proposal. A request for proposal may allow for the payment of stipends for the technical proposal phase provided that the amount of the stipends and the terms under which stipends are to be paid are stated in the request for proposal.

SECTION 9. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The entity selected under KRS 45A.810 to draft the preliminary project design or specifications that forms the basis of a request for proposal for a project utilizing the design-build project delivery method shall not be eligible to act as an offeror to the request for proposal for procuring a design-build team for that project.

SECTION 10. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

- (1) *When a capital project is to be constructed utilizing the design-build method in accordance with Section 7 of this Act, a process parallel to the selection committee procedures established in KRS 45A.810 shall apply when procuring a design-build team and shall incorporate the following:*
 - (a) *The evaluation process may include a multiple phased proposal that is based on qualifications, experience, technical requirements, guaranteed maximum price, and other criteria as set forth in the request for proposal. The guaranteed maximum price component shall be submitted by the offeror independently of other documents and shall be held by the director of the Division of Contracting and Administration.*

- (b) *Each evaluator shall independently score each phase and indicate a total score for all evaluation factors as set forth in the request for proposal.*
- (c) *Final phase proposals from the offerors on the short list shall be evaluated and scored by the evaluation committee members who shall not have knowledge of the guaranteed maximum price component. Each evaluator shall independently score the final phase proposals and indicate a total score. A total average score shall be calculated for each offeror. Then each offeror's respective score for the guaranteed maximum price shall be added. The offeror with the highest point total in the final phase shall receive the contract award unless the guaranteed maximum price proposal is in excess of the authorized budget. If two (2) or more of the offerors achieve the same highest point total at the end of the final phase scoring, the purchasing officer shall request best-and-final proposals from each offeror.*
- (d) *If the guaranteed maximum price of the offeror with the highest point total in the final phase is greater than the amount of funds identified in the request for proposal, then competitive negotiations may be conducted with the offerors under the following restrictions:*
 - 1. *If discussion pertaining to the revision of the specifications or quantities are held, the offerors shall be afforded an opportunity to take part in such discussions; and*
 - 2. *Written revisions of the specifications shall be made available to each of the offerors and shall provide for an expeditious response.*
 - 3. *Information derived from revised maximum guaranteed price proposals shall not be disclosed to competing offerors.*
- (2) *A request for proposal or other solicitation may be canceled, or all proposals may be rejected, if it is determined in writing that such action is taken in the best interest of the Commonwealth and approved by the purchasing officer.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

When a capital project is to be constructed utilizing the construction management-at-risk method, a process parallel to the selection committee procedures established in KRS 45A.810 shall apply when procuring a construction management-at-risk firm and regulations promulgated in accordance with Section 7 of this Act shall apply that set forth requirements for:

- (1) *Description of the bond, insurance, and other security provisions that apply to a project;*
- (2) *Description of appropriate contract clauses and fiscal responsibility requirements that apply to each project; and*
- (3) *Restrictions relating to conflicts of interest, including a provision that a construction management-at-risk entity shall be eligible to become an offeror of goods or services on a project it manages only when a subcontractor fails to perform and upon prior approval by the contracting body.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The selection committee procedures established in Section 7 of this Act shall apply when procuring services of a construction manager-agency for a fee if the fee amount exceeds fifty thousand dollars (\$50,000).

Section 13. KRS 45A.830 is amended to read as follows:

- (1) For architectural, engineering, and engineering-related **construction** services procured under **Section 7 of this Act** and KRS 45A.825, the procuring officer shall make available a copy of the proposed contract to each member of the selection committee involved in the procurement process for that contract after the procuring officer has negotiated an architectural, engineering, or engineering-related services contract for the Finance and Administration Cabinet or an engineering or engineering-related services contract for the Transportation Cabinet, but before the contract is submitted to the Government Contract Review Committee.
- (2) For architectural, engineering, and engineering-related **construction** services procured under **Section 7 of this Act** and KRS 45A.825, the secretary of the procuring agency, the procuring officer, and each voting member of the selection committee shall sign separate certificates, devised by the procuring agency, that shall provide the signatory with the option of certifying that, to the best of his knowledge, he is either aware or unaware of circumstances that may constitute a violation of this chapter occurring in the procurement process. Any

employee of the Auditor of Public Accounts, who served as a nonvoting member of the selection committee and who attended any committee proceeding, may participate in the preparation of a report for filing with the Government Contract Review Committee certifying that the applicable procedural provisions of subsections (4), (6), (7), and (8) of KRS 45A.825 were or were not met. Before filing the report, the employee or employees who participated in its preparation shall sign it.

- (3) For architectural, engineering, and engineering-related **construction** services procured under **Section 7 of this Act** and KRS 45A.825, the procuring agency shall maintain the following information, readily available to the Government Contract Review Committee upon request:
 - (a) The certificates;
 - (b) The selection committee's ranking of firms; and
 - (c) A statement affirming that responding firms in all regions of the Commonwealth were given equal consideration for selection.

Section 14. KRS 56.8161 is amended to read as follows:

If the secretary of the Finance and Administration Cabinet determines that an agency is entitled to additional space and that built-to-suit on private property or built-to-suit on state-owned land is the most economically advantageous method for acquiring that space, the secretary shall set forth his determination in a written finding which shall be approved by the Governor. ***The following definitions shall apply to built-to-suit projects:***

- (1) ***"Design-build-finance" means a built-to-suit project delivery method in which the chief purchasing officer enters into a single procurement and contract award for design, construction, and financing of a capital project over a contractually defined period; and in which the ownership and title of the capital project shall be conveyed at any time to the Commonwealth of Kentucky.***
- (2) ***"Design-build-finance-operate" means a built-to-suit project delivery method in which the chief purchasing officer enters into a single procurement and contract award for design, construction, financing, and operation of a capital project over a contractually defined period; and in which the ownership and title of the capital project shall be conveyed at any time to the Commonwealth of Kentucky.***

Section 15. KRS 56.8177 is amended to read as follows:

All built-to-suit lease agreements shall be ***reviewed by the Office of Financial Management prior to execution on behalf of***~~executed for~~ the Commonwealth by the secretary of the Finance and Administration Cabinet ***or on behalf of an institution in accordance with KRS 164A.630***, and approved for form and legality by the Attorney General or an assistant attorney general, before they shall be binding against the Commonwealth. All the leases shall be lodged for record and recorded in the office of the county clerk of the county in which the leased property is located.

Section 16. KRS 164A.575 is amended to read as follows:

- (1) The governing boards of each institution may elect to purchase interest in real property, contractual services, rentals of all types, supplies, materials, equipment, printing, and services, except that competitive bids may not be required for:
 - (a) Contractual services where no competition exists;
 - (b) Food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies;
 - (c) Instructional materials available from only one (1) source;
 - (d) Where rates are fixed by law or ordinance;
 - (e) Library books;
 - (f) Commercial items that are purchased for resale;
 - (g) Professional, technical, scientific, or artistic services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725;
 - (h) All other commodities, equipment, and services which, in the reasonable discretion of the board, are available from only one (1) source; and
 - (i) Interests in real property.

- (2) Nothing in this section shall deprive the boards from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between General Services Administration and the vendor affected.
- (3) The governing board shall require the institution to take and maintain inventories of plant and equipment.
- (4) The governing board shall establish procedures to identify items of common general usage among all departments to foster volume purchasing. It shall establish and enforce schedules for purchasing supplies, materials, and equipment.
- (5) The governing board shall have power to salvage, to exchange, and to condemn supplies, equipment, and real property.
- (6) Upon the approval of the secretary of the Finance and Administration Cabinet, the governing board may purchase or otherwise acquire all real property determined to be needed for the institution's use. The amount paid shall not exceed the appraised value as determined by a qualified appraiser or the value set by the eminent domain procedure. Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.
- (7) The governing board shall sell or otherwise dispose of all real or personal property of the institution which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the board. The determination of the board shall be set forth in an order, and shall be reached only after review of a written request by the institution desiring to dispose of the property. Such request shall describe the property and state the reasons why the institution believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the appropriate officer of the board. Unless the board deems it in the best interest of the institution to proceed otherwise, all such real or personal property shall be sold either by invitation of sealed bids or by public auction; provided, however, that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the Finance and Administration Cabinet or the Transportation Cabinet for such requirements of that department.
- (8) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employee of any board of the institution, based upon a written application by the grantor or lessor approved by the board, that the employee has not either himself or through any other person influenced or attempted to influence either the board requesting the purchase of the property. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.
- (9)
 - (a) *As used in this section, "construction manager-agency," "construction management-at-risk," "design-bid-build," and "design-build" shall have the same meaning as in Section 1 of this Act.*
 - (b) For capital construction projects, the ~~procurement[bidding]~~ may be on a total ~~design-bid-build[design-bid]~~ basis, a ***design-build basis, or construction management-at-risk basis*** ~~[package system commonly referred to as "turnkey," or construction management]~~, whichever in the judgment of the board offers the ***best value*** ~~[lowest real cost]~~ to the taxpayer. ~~Proposals[Bids]~~ shall be reviewed by the institution's engineering staff to assure quality and value, and compliance with ~~procurement[bid]~~ procedures. All specifications shall be written to promote competition. ***Services for projects delivered on the design-build basis or construction management-at-risk basis shall be procured in accordance with Section 7 of this Act and the regulations promulgated in accordance with Section 7 of this Act. Nothing in this section shall prohibit the procurement of construction manager-agency services.***
- (10) The governing board shall attempt in every practicable way to insure the institution's supplying its real needs at the lowest possible cost. To accomplish this the board may enter into cooperative agreements with other public or private institutions of education or health care.
- (11) The governing board shall have control and supervision over all purchases of energy consuming equipment, supplies, and related equipment purchased or acquired by the institution, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.

- (12) The governing board may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency must be fully explained, in writing, by the vice president responsible for business affairs and such explanation must be approved by the university president. The letter and approval shall be filed with the record of all such purchases. Where practical, standard specifications shall be followed in making emergency purchases. A good faith effort shall be made to effect a competitively established price for emergency purchases.
- (13) The acquisition and disposition of real property for the University of Kentucky Community College System and capital construction projects under KRS 45.750(1)(f) on real property for the use of the University of Kentucky Community College System shall be approved by the Kentucky Community and Technical College System board of regents, which shall transmit the action to the University of Kentucky board of trustees for approval.

Section 17. KRS 164A.580 is amended to read as follows:

Subject to the provisions of KRS 45.750 through 45.800, **Section 7 of this Act**, and KRS 56.870 to 56.874, the governing board of each institution may provide for the management and administration of capital construction projects authorized for such institution including, but not limited to:

- (1) The procurement of necessary consulting services;
- (2) The supervision and control of the making of all contracts for building projects, renovation projects, repair projects, and supervision of same;
- (3) The prescription of the amount and form of evidences of indebtedness submitted in connection with bids and contracts when not otherwise provided by law;
- (4) The preparation of plans and specifications for any construction, alteration, or enlargement of buildings, structures, and other improvements;
- (5) The advertisement of bids and the awarding of contracts in connection with such projects;
- (6) The supervision and inspection of all related work;
- (7) The approval of changes in plans or specifications; and
- (8) The acceptance of such improvements when completed according to such plans and specifications.

Section 18. KRS 164A.585 is amended to read as follows:

- (1) Subject to authorization by the General Assembly **and Section 17 of this Act**, the governing boards may make plans and specifications, advertise for bids, let contracts or incur any financing commitments, either in the way of a charge against institution funds or in the way of negotiations for issuance of revenue bonds, for any capital construction projects involving the improvement of lands or the construction, alteration, reconstruction, or major repair of any building or other structure, or sewage disposal, water supply system or other utility system.
- (2) Review of construction plans for conformance with the uniform state building code shall be conducted by the Department of Housing, Buildings and Construction. The board shall not approve any such project requiring its approval in any instance where it finds that the project is not needed, or that the proposed method of financing is not sound, or in cases where the project will exceed the amount of the funds available therefor, or the work contemplated will be insufficient to accomplish the purpose of the project, or that after providing for the ordinary recurring expenses of administration and debt service and for payments under existing allotments for extraordinary expenses and capital outlay, cash will not be available in the Treasury to promptly pay for the work or that the work is to be done by employees of the institution.
- (3) Any capital construction project, except as provided in subsection (4) of this section, shall be contracted for on a competitive bid basis, and the execution of such contracts shall be approved and authorized by the board. When a capital construction project has been approved as provided in this section, in whole or in part, the board shall prepare the plans and specifications, advertise for bids, award the contracts, supervise the construction and handle the financial negotiations.
- (4) A capital construction project, the total cost of completion of which will not exceed one hundred thousand dollars (\$100,000), may be performed by the employees of the institution or by individuals hired specifically for the project. Necessary materials and supplies shall be procured in accordance with the standard purchasing procedures and policies of the board as defined in KRS 164A.575.

Section 19. KRS 164A.595 is amended to read as follows:

Capital construction projects shall be carried out as follows:

- (1) Subject to the provisions of KRS 45.750 through 45.800, *and Section 7 of this Act*, the governing boards of the institutions may acquire, erect, construct, reconstruct, improve, rehabilitate, remodel, repair, complete, extend, enlarge, equip, furnish, and operate any buildings, structures, improvements, or facilities, including any utilities, other related services and appurtenances and land required as the respective governing boards shall deem necessary for carrying on the educational, research or public service programs or discharging the statutory responsibilities of the universities and colleges and various divisions under the jurisdiction of the boards, or for the management, operation, or servicing of the universities and colleges.
- (2) The governing boards may acquire real or personal property, by purchase, lease, sublease, condemnation, trade or exchange, gift, devise, or otherwise, and improve such property whenever in the judgment of the governing board it shall be necessary. The title to any real estate acquired under this section shall vest in the Commonwealth for the use and benefit of the appropriate institution.

Section 20. KRS 164A.600 is amended to read as follows:

- (1) The procedures and limitations related to capital construction and equipment purchases set forth in KRS 45.750 through 45.800 *and for construction of capital projects set forth in KRS Chapter 45A* shall apply to the governing boards. The governing boards shall establish a contingency fund and an emergency repair, maintenance and replacement fund in their plant fund records. Transfer and use of these funds shall be governed by the provisions of KRS 45.770 and 45.780, as appropriate, except that the governing boards of each university shall perform the functions assigned to the Finance and Administration Cabinet in KRS 45.770 and 45.780.
- (2) Capital construction and equipment purchase projects established by the governing boards shall be limited to the scope authorized by the General Assembly, and the total costs of each project shall not exceed the appropriation; except for emergency projects that may arise. In such instances, the governing boards may transfer funds from other projects or from operating funds; however each emergency project that is authorized by the board and sources of funds shall be promptly reported to the Capital Projects and Bond Oversight Committee.

Section 21. KRS 45A.300 is amended to read as follows:

- (1) Any public purchasing unit may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the acquisition of any supplies, services, or construction with any other public purchasing unit or foreign purchasing activity, in accordance with an agreement entered into between the participants. This cooperative purchasing may include, but is not limited to, joint contracts between public purchasing units and access by local public purchasing units to open-ended state public purchasing unit contracts.
- (2) Nothing in this code shall limit any public purchasing unit from selling to, acquiring from, or using any property belonging to another public purchasing unit or foreign purchasing activity independent of the requirements of KRS 45A.070 to ~~45A.180~~~~[45A.165]~~.
- (3) Nothing in this code shall limit or restrict any public purchasing unit from entering into an agreement, independent of the requirements of KRS 45A.045(5) and KRS 45A.070 to 45A.165, with any other public purchasing unit or foreign purchasing activity for the cooperative use of supplies or services.
- (4) Any public purchasing unit may enter into an agreement for the joint or common use of warehousing facilities or the lease or common use of capital equipment or facilities with any other public purchasing unit or a foreign purchasing activity subject to the terms as may be agreed upon between the parties.
- (5) Nothing in this code shall limit or restrict the ability of local school districts to acquire supplies outside of the public purchasing agreements when the supplies and equipment meeting the same specifications as the contract items are available at a lower price elsewhere and the purchase does not exceed two thousand five hundred dollars (\$2,500).
- (6) Nothing in this code shall limit any public purchasing unit from receiving notice of or accepting a price reduction on supplies or equipment when the supplies or equipment are being offered by the vendor with whom a price agreement has been made; the supplies or equipment are being offered in accordance with all terms and conditions that are specified in the price agreement, except those relating to price; and the price reduction is

offered to all of the participants in the price agreement. Public purchasing units may accept special price reductions under this subsection even if the reduced price requires the purchase of a specified quantity of units different from the quantity stated in the original price agreement. Price reductions under this subsection shall not be considered to permanently alter the price of the supplies or equipment under the price agreement with the Commonwealth, except where the price reductions are to be made permanent under the express terms of the price agreement and where the purchasing agency which solicited the price agreement determines that the enforcement of those terms serves the best interest of the Commonwealth.

Section 22. KRS 45A.155 is amended to read as follows:

The determinations required by KRS 45A.085(1), (3), **(6), and (7)**~~[(5) and (6)]~~; 45A.090(1), (2) and (3); 45A.095; 45A.105; 45A.110(1); 45A.120(3); and 45A.130(1) shall be final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

Approved March 18, 2003

CHAPTER 99

(HB 324)

AN ACT relating to real property conveyances.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

An agent licensed under KRS Chapter 324 representing a party in the sale, leasing, or exchange of real property shall have no affirmative duty to disclose to any person who acquires, by voluntary or involuntary transfer, a legal or equitable interest in real property, including any leasehold or security interest for an obligation, information not required by this chapter or applicable federal law.

Approved March 18, 2003

CHAPTER 100

(HB 346)

AN ACT relating to sales tax.

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

Section 1. 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 KRS 139.170(3). 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;
- (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;~~and~~
- (16) Gross receipts from the sale of unenriched or enriched uranium purchased for ultimate storage, use, or other consumption outside this state and delivered to a common carrier in this state for delivery outside this state, regardless of whether the carrier is selected by the buyer or seller, or is an agent or representative of the buyer or seller, or whether the F.O.B. is seller's shipping point or buyer's destination; **and**
- (17) ***Amounts received from a tobacco buydown. As used in this subsection, "buydown" means an agreement whereby an amount, whether paid in money, credit, or otherwise, is received by a retailer from a manufacturer or wholesaler based upon the quantity and unit price of tobacco products sold at retail that requires the retailer to reduce the selling price of the product to the purchaser without the use of a manufacturer's or wholesaler's coupon or redemption certificate.***

Section 2. The provisions of this Act shall also apply retroactively to periods beginning prior to the effective date of this Act.

Approved March 18, 2003

CHAPTER 101

(HB 353)

AN ACT relating to candidates for office.

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

Section 1. KRS 118.212 is amended to read as follows:

- (1) If, before the time of certification of candidates who will appear on the ballot provided in KRS 118.215, any candidate whose notification and declaration or certificate or petition of nomination has been filed in the office of the Secretary of State dies or notifies the Secretary of State in writing, signed and properly notarized that he will not accept the nomination or election, the Secretary of State shall not certify his name.
- (2) If, after the certification of candidates who will appear on the ballot, any candidate whose notification and declaration or certificate or petition of nomination has been filed in the office of the county clerk dies or notifies the clerk, in the manner described in subsection (1) of this section, that he will not accept the nomination or election, the clerk shall ensure that notice is provided to the appropriate precincts as provided in subsection (5) of this section.
- (3) If, after the certification of candidates who will appear on the ballot, any candidate whose notification and declaration or certificate or petition of nomination has been filed in the office of the Secretary of State dies or notifies the Secretary of State in the manner described in subsection (1) of this section, that he will not accept the nomination or election, the Secretary of State shall immediately notify the appropriate county clerk, and the clerk shall ensure that notice is provided to the appropriate precincts as provided in subsection (5) of this section.
- (4) If, after the certification of candidates who will appear on the ballot, any candidate whose name appears on the ballot shall officially withdraw or die, neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate; ***and, if there is only one (1) remaining candidate on the ballot for that office in a primary election, following the withdrawal or death of the other candidate or candidates, neither the precinct election officers nor the county board of elections shall tabulate or record the votes for the remaining candidate, and the officer with whom the remaining candidate has filed his or her nomination papers shall immediately issue and file in his or her office a certificate of nomination for that remaining candidate and send a copy to the remaining candidate.***

- (5) If, after the certification of candidates who will appear on the ballot, any candidate whose name appears on the ballot shall officially withdraw or die, the county clerk shall provide a notice to the precinct election officers who shall see that the notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notice required by this subsection and the precinct officers fail to post the notice at the polling place, the precinct officers shall be guilty of a violation subject to a fine of not less than ten dollars (\$10) nor more than two hundred fifty dollars (\$250).

Section 2. KRS 83A.170 is amended to read as follows:

- (1) In any city which has under the provisions of KRS 83A.045 or 83A.050 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section or as otherwise provided in this chapter relating to nonpartisan elections.
- (2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by KRS Chapters 116 to 121, except as otherwise provided in this chapter. Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.
- (3) Each applicant for nomination shall, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk as provided in KRS 83A.047, file a petition of nomination, which shall be in the form prescribed by the State Board of Elections signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized, he shall be counted as a petitioner for the candidate whose petition is filed first.
- (4) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.
- (5) Immediately upon expiration of the time for filing petitions, the county clerk shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.
- (6) Subsection (5) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no drawing for ballot position nor primary election shall be held for that office.
- (7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.
- (8) If, before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk dies or notifies the clerk in writing, signed and properly notarized, that he will not accept the nomination, the clerk shall not cause his name to be printed on the ballot.
- (9) If, after the ballots are printed, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die; ~~or~~
 - (a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate; ~~or~~
 - (b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation;
 - (c) ***In a primary election, if there are only one (1) or two (2) remaining candidates on the ballot for that office, following the withdrawal or death of the other candidate or candidates, neither the precinct***

election officers nor the county board of elections shall tabulate or record the votes for the remaining candidate or candidates, and the officer with whom the remaining candidate or candidates has filed his or her nomination papers shall immediately issue and file in his or her office a certificate of nomination for that remaining candidate or candidates and send a copy to the remaining candidate or candidates.

- (10) Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one (1) candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at large. No party designation or emblem of any kind nor any sign indicating any applicant's political belief or party affiliation shall be used.
- (11) Persons qualified to vote at a regular election shall be qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election shall be applicable to challenges made at a nonpartisan primary election.
- (12) Votes shall be counted as provided in general election laws, pursuant to KRS Chapters 116 to 121, and the result shall be published as provided in KRS Chapter 424.
- (13) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated; or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled.
- (14) At the regular election following a nonpartisan primary election, the names of the successful nominees and candidates who have filed a petition of candidacy as provided in this chapter to fill a vacancy shall be placed before the voters.
- (15) The nominee or candidate receiving the greater number of votes cast for each city office shall be elected.
- (16) KRS Chapters 116 to 121 prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

Section 3. KRS 83A.175 is amended to read as follows:

- (1) The election to fill the regular term of a nonpartisan city office shall be conducted in the manner prescribed in KRS 83A.165 when, in a regular election for nonpartisan city office no candidates nominated to an office as provided in KRS 83A.170 are available due to death, incapacity, or withdrawal, or when city legislative body members are to be elected at large and there are fewer nominees than there are offices to be filled, or when a city of the fourth to sixth class has not conducted a primary election pursuant to KRS 83A.045.
- (2) Each candidate shall, not earlier than the first Wednesday after the first Monday in November of the year before the year in which the office will appear on the ballot and not later than the last date prescribed by the election law generally for filing petitions of nomination with the county clerk as provided in KRS 83A.047, file a petition for candidacy. The petition shall be prescribed by the State Board of Elections and shall be signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized, he shall be counted as a petitioner for the candidate whose petition is filed first.
- (3) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.
- (4) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.
- (5) If, before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk, dies or notifies the clerk in writing, signed and properly notarized, that he will not accept the election, the clerk shall not cause his name to be printed on the ballot.
- (6) If, after the ballots are printed, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die: ~~or~~

- (a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate;~~[-]~~
- (b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation;
- (c) ***If there is only one (1) remaining candidate on the ballot for that office in a primary election, following the withdrawal or death of the other candidate or candidates, neither the precinct election officers nor the county board of elections shall tabulate or record the votes for the remaining candidate, and the officer with whom the remaining candidate has filed his or her nomination papers shall immediately issue and file in his or her office a certificate of nomination for that remaining candidate and send a copy to the remaining candidate.***

Section 4. KRS 118A.150 is amended to read as follows:

- (1) In certification of candidates for judicial office, no reference shall be made to political affiliation.
- (2) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination or candidacy papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination or candidacy papers.
- (3) No county clerk shall knowingly cause to be printed on the ballot labels or absentee ballots for any election, the name of a candidate for an office of the Court of Justice who has not been certified in the manner specified in this chapter.
- (4) If, before the time of certification of candidates who will appear on the ballot provided for in this chapter, any candidate whose petition or certificate of nomination or petition for candidacy has been filed, dies or notifies the Secretary of State in writing, signed and properly notarized, that he will not accept the nomination or election, the Secretary of State shall not certify his name.
- (5) If, after the certification of candidates who will appear on the ballot, any candidate whose petition or certificate of nomination or petition for candidacy has been filed, dies or notifies the Secretary of State in the manner described in subsection (4) of this section, that he will not accept the nomination or election, the Secretary of State shall immediately notify the appropriate county clerk, and the clerk shall ensure that notice is provided to the appropriate precincts as provided in subsection (7) of this section.
- (6) If after the certification of candidates who will appear on the ballot, any candidate whose name appears on the ballot shall withdraw or die, neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate; ***and, in a primary election, if there are only one (1) or two (2) remaining candidates on the ballot for that office, following the withdrawal or death of the other candidate or candidates, neither the precinct election officers nor the county board of elections shall tabulate or record the votes for the remaining candidate or candidates, and the officer with whom the remaining candidate or candidates has filed his or her nomination papers shall immediately issue and file in his or her office a certificate of nomination for that remaining candidate or candidates and send a copy to the remaining candidate or candidates.***
- (7) If, after the certification of candidates who will appear on the ballot, any candidate whose name appears on the ballot shall withdraw pursuant to KRS 118.212 or die, the county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation, subject to a fine of not less than ten dollars (\$10) nor more than two hundred fifty dollars (\$250).

Approved March 18, 2003

CHAPTER 102**(HB 366)**

AN ACT relating to souvenir retail liquor licenses.

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

Section 1. KRS 243.0305 is amended to read as follows:

- (1) A souvenir retail liquor license may be issued to any licensed Kentucky distiller that has a gift shop or other retail outlet on its premises, if the distillery is located in wet territory. The application shall be made on forms provided by the board.
- (2) A wholesaler registered to distribute the brands of any distiller holding a souvenir retail license may permit the distiller to deliver a souvenir package directly from the distillery proper to the portion of the distillery premises operated by the licensee for the sale of souvenir packages. However, all direct shipments shall be invoiced from the distiller to the wholesaler and from the wholesaler to the souvenir package licensee, and all products directly shipped shall be included in the wholesaler's inventory and depletions for purposes of tax collections imposed pursuant to KRS 243.710 to 243.895 and 243.990.
- (3) A distiller who has obtained a souvenir retail license may sell souvenir packages at retail to distillery visitors of legal drinking age, in quantities not to exceed an aggregate of three (3) liters per visitor per day, ***with the exception of a purchase by a partnership, limited liability partnership, corporation, limited liability company, or other business entity holding an event on the premises of the distillery, in which case the limitation shall be one (1) liter per visitor attending the event.*** These sales shall be permitted only through the gift shop or other retail outlet on the distiller's premises.
- (4) Hours of sale for a souvenir retail liquor licensee shall be 9 a.m. until 9 p.m. prevailing time Monday through Saturday. The licensed premises may remain open if they have a separate department pursuant to KRS 244.290(1).
- (5) Except as provided in this section, souvenir retail liquor licenses shall be governed by all the statutes and administrative regulations governing the retail sale of distilled spirits by the package.
- (6) No wholesaler may restrict the sale of souvenir packages to the souvenir retail liquor licensee exclusively, but shall make souvenir packages available to any Kentucky retail licensee licensed for the sale of distilled spirits by the package.

Approved March 18, 2003

CHAPTER 103**(HB 388)**

AN ACT relating to the discharge of a security interest.

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

Section 1. KRS 186.045 is amended to read as follows:

- (1) ***A perfected security interest in a motor vehicle that has been satisfied by payment in full shall be deemed to have been discharged if one (1) or both of the following events has occurred:***
 - (a) ***The funds to pay in full and discharge the security interest have been provided to the secured party in the form of a cashier check, certified check, or wire transfer; or***
 - (b) ***The debt has been paid to a secured party who is no longer in existence or has failed to file the necessary documents to discharge the lien.***
- (2) ***If payment in full has been made under subsection (1)(a) of this section, the discharge of the lien shall be made not later than ten (10) days from the receipt of the payment.***

- (3) *When a security interest has been paid in full and a termination statement or discharge has not been filed, the debtor may petition the Circuit Court in the county of the debtor's residence to order the discharge of the security interest. The debtor shall present written evidence to the Circuit Court that the security interest has been paid in full. If the evidence presented to the Circuit Court proves to the court's satisfaction that the security interest has been paid in full, the court shall order the county clerk to note the termination on the title and to remove the lien from the Automated Vehicle Information System (AVIS). A copy of the court's order shall immediately be sent to the county clerk in the county where the security interest was originally filed and the county clerk shall discharge the security interest and remove the lien information from AVIS in accordance with the provisions of this section.*
- (4) Whenever a security interest has been discharged, other than by proceedings under Part 6 of Article 9 of KRS Chapter 355 or similar proceedings, the secured party shall deliver a termination statement in the manner required by KRS 355.9-513 to the county clerk of the county in which the title lien statement was submitted. The secured party shall also deliver a copy of the termination statement to the debtor or the debtor's transferee. For failure to file the termination statement within the allowable time, the secured party shall be subject to the penalty provided in KRS 186.990(1). *Except as provided in subsection (3) of this section*, within five (5) days after the receipt of such documents, the county clerk shall note the filing in the index, in language prescribed by the cabinet, that the termination statement has been filed. Upon presentation of the owner's title showing ~~a[such]~~ security interest to the county clerk where the termination statement was submitted, and with the copy of the termination statement submitted by the secured party, the clerk shall discharge the security interest by noting on ~~the[such]~~ title that the termination statement has been filed and place the seal of the county clerk thereon. The clerk shall return the owner's title to the owner. The county clerk shall then file the termination statement in the place from which the title lien statement was removed. Termination statements ~~shall must~~ be retained in the clerk's files for a period of two (2) years subsequent to the date of filing ~~a[such]~~ statement, at which time they may be destroyed. The fee for these services are included in the provisions of KRS 186A.190.
- (5)(2) Upon presentation of ~~an[the]~~ owner's title showing ~~a[such]~~ security interest to the county clerk of a county where the termination statement was not delivered, the county clerk ~~[of that county]~~ shall access the automated system to determine whether a record of termination of the security interest has been entered into the automated system by the county clerk where the termination statement was delivered by the secured party as provided in KRS 186A.210. If ~~a[such]~~ record of termination has been entered into the automated system, the county clerk of the county where the termination statement was not delivered, shall note the discharge of the security interest on the certificate of title by noting that the termination statement has been delivered, the county where it was delivered, and placing the seal of the county clerk thereon and may rely on the automated system to do so. If ~~a[such]~~ record of termination has not been entered into the automated system, ~~[in no case shall]~~ the county clerk of the county other than where the termination statement was delivered ~~shall not~~, make any notation upon the certificate of title that the security interest has been discharged or that a termination statement has been delivered to the county where the title lien statement was submitted.
- (6)(3) Whenever any secured party repossesses a vehicle titled in ~~Kentucky~~~~[this Commonwealth]~~, for which a security interest is in existence at the time of repossession, and disposes of ~~the[such]~~ vehicle pursuant to the provisions of KRS Chapter 355, he ~~shall must~~ present, within fifteen (15) days after such disposition, an affidavit in ~~a~~ form prescribed by the department and a termination statement or proof that ~~a[such]~~ termination statement has been filed. The new owner shall pay all applicable fees for titling and transferring the vehicle to the county clerk. Upon receipt of such documents, the county clerk who issued the lien shall then omit from the title he makes application for any information relating to the security interest under which the vehicle was repossessed or any security interest subordinate thereto. However, any security interest, as shown by such title which is superior to the one under which the vehicle was repossessed, ~~shall must~~ be shown on the title issued by the clerk unless the prior secured party has discharged ~~the[such]~~ security interest in ~~the[such]~~ clerk's office or proof of termination is submitted, ~~if the~~~~[in case such]~~ prior security interest was discharged in another clerk's office.
- (7)(4) Whenever any vehicle brought into ~~Kentucky~~~~[this Commonwealth]~~ is required to be titled ~~and the~~~~[in this Commonwealth and such]~~ vehicle is then subject to a security interest in another state as shown by the out-of-state documents presented to the clerk, the county clerk is prohibited from processing the application for title on the vehicle unless the owner obtains from the secured party a financing statement or title lien statement and presents same to the clerk along with the fees required in KRS 186A.190. The clerk shall note the out-of-state security interest on the certificate of title. This provision does not apply to vehicles required to be registered in Kentucky under forced registration provisions under KRS 186.145.

- (8)(5) The fees provided for in this section are in addition to any state fee provided for by law.
- (9)(6) Any person violating any provision of this section or any person refusing to surrender a certificate of title registration and ownership or transfer certificate upon request of any person entitled thereto, is subject to the penalties provided in subsection (1) of KRS 186.990.
- (10)(7) The county clerk is prohibited from noting any security interest on a certificate of title on any vehicle subject to the provisions of KRS Chapter 186A if a certificate of title therefor is presented to him which has all the spaces provided thereon for noting security interests fully exhausted. The owner **is responsible for ensuring**~~[must see to it]~~ that a discharge is noted on the certificate of title for each security interest and then a duplicate title as provided for in KRS 186A.180 **shall**~~[must]~~ be obtained from the clerk by the owner of the vehicle.
- (11)(8) Security interests in vehicles sold to or owned by residents of other states **shall**~~[must]~~ be perfected in the state of ~~the [such]~~ nonresident and repossession of the vehicle **shall**~~[must]~~ be taken pursuant to the laws of ~~that [such]~~ state, unless: ~~[the vehicle]~~
- (a) **The vehicle** is principally operated in Kentucky;~~[and]~~
 - (b) **The vehicle** is properly titled **in Kentucky**~~[herein]~~ under KRS Chapter 186A; and
 - (c) The security interest is authorized to be noted on the certificate of title by the county clerk under KRS Chapter 186A.

Section 2. 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) 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 ~~the~~^{such} property's certificate of title ***under the provisions of this chapter or in accordance with the provisions of subsection (3) of Section 1 of this Act.*** 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, ~~a~~^{no} subsequent title ~~shall not~~^{may} be issued by any county clerk free of ~~the~~^{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. ***If information relating to the discharge of a security interest is presented to a clerk under the provisions of subsection (3) of Section 1 of this Act, the clerk shall discharge the security interest and remove the lien information from AVIS.***
- (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 3. KRS 186A.210 is amended to read as follows:

- (1) ***When a security interest has been discharged under the provisions of subsection (3) of Section 1 of this Act, the county clerk shall discharge the security interest and remove the lien information from AVIS.***
- (2) ***When***~~Whenever~~ a security interest~~to a vehicle~~ has been discharged as provided by KRS 186.045(5)~~(2)~~, the county clerk of a county that is operating under automated procedures shall, upon receiving a termination statement, within five (5) days enter the record of termination into the automated system. The automated system shall be programmed to allow a county clerk in a county where the termination statement was not received to access the automated system to determine the county and date that the record of termination was entered into the automated system. The clerk of the county where the termination statement was received shall then release the lien recorded upon the title in the manner directed by the Department of Vehicle Regulation, and take such other action with respect to a termination as is directed by the Department of Vehicle Regulation.

Section 4. KRS 138.470 is amended to read as follows:

There is expressly exempted from the tax imposed by KRS 138.460:

- (1) Motor vehicles sold to the United States, or to the Commonwealth of Kentucky or any of its political subdivisions;
- (2) Motor vehicles sold to institutions of purely public charity and institutions of education not used or employed for gain by any person or corporation;
- (3) Motor vehicles which have been previously registered and titled in any state or by the federal government when being sold or transferred to licensed motor vehicle dealers for resale. ~~The~~~~Such~~ motor vehicles shall not be leased, rented, or loaned to any person and shall be held for resale only;
- (4) Motor vehicles sold by or transferred from dealers registered and licensed in compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080 to nonresident members of the Armed Forces on duty in this Commonwealth under orders from the United States government;
- (5) Commercial motor vehicles, excluding passenger vehicles having a seating capacity for nine (9) persons or less, owned by nonresident owners and used primarily in interstate commerce and based in a state other than Kentucky which are required to be registered in Kentucky by reason of operational requirements or fleet proration agreements and are registered pursuant to KRS 186.145;
- (6) Motor vehicles previously registered in Kentucky, transferred between husband and wife, parent and child, stepparent and stepchild, or grandparent and grandchild;

- (7) Motor vehicles transferred when a business changes its name and no other transaction has taken place or an individual changes his or her name;
- (8) Motor vehicles transferred to a corporation from a proprietorship or limited liability company, to a limited liability company from a corporation or proprietorship, or from a corporation or limited liability company to a proprietorship, within six (6) months from the time that the business is incorporated, organized, or dissolved;
- (9) Motor vehicles transferred by will, court order, or under the statutes covering descent and distribution of property, if the vehicles were previously registered in Kentucky;
- (10) Motor vehicles transferred between a subsidiary corporation and its parent corporation if there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;
- (11) Motor vehicles transferred between a limited liability company and any of its members, if there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;
- (12) The interest of a partner in a motor vehicle when other interests are transferred to him;
- (13) Motor vehicles repossessed by a secured party who has a security interest in effect at the time of repossession and a repossession affidavit as required by KRS 186.045(7)~~((4))~~. The reposessor shall hold the vehicle for resale only and not for personal use, unless he has previously paid the motor vehicle usage tax on the vehicle; and
- (14) Motor vehicles transferred to an insurance company to settle a claim. These vehicles shall be junked or held for resale only.

Section 5. KRS 186.990 is amended to read as follows:

- (1) Any person who violates any of the provisions of KRS 186.020, 186.030, 186.040, 186.045(5)~~((2))~~, 186.050, 186.056, 186.060, 186.110, 186.130, 186.140, 186.160, 186.170, 186.180(1) to (4)(a), 186.210, 186.230, or KRS 186.655 to 186.680 shall be guilty of a violation.
- (2) Any person who violates any of the provisions of KRS 138.465, 186.190, or 186.200 shall be guilty of a Class A misdemeanor.
- (3) A person who violates the provisions of KRS 186.450(4) or (5) shall be guilty of a violation. A person who violates any of the other provisions of KRS 186.400 to 186.640 shall be guilty of a Class B misdemeanor.
- (4) Any clerk or judge failing to comply with KRS 186.550(1) shall be guilty of a violation.
- (5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have it on his or her person or misplaced or lost it, the court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment, or cost.
- (6) Any person who steals a motor vehicle registration plate or renewal decal shall be guilty of a Class D felony. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.
- (7) Any person who violates the provisions of KRS 186.1911 shall be guilty of a Class A misdemeanor.
- (8) Any person who makes a false affidavit to secure a license plate under KRS 186.172 shall be guilty of a Class A misdemeanor.
- (9) Any person who violates any provision of KRS 186.070 or 186.150 shall be guilty of a Class A misdemeanor.
- (10) Any person who operates a vehicle bearing a dealer's plate upon the highways of this Commonwealth with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.
- (11) Any person, other than a licensed dealer or manufacturer, who procures a dealer's plate with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class D felony.
- (12) Any resident who unlawfully registers, titles, or licenses a motor vehicle in any state other than Kentucky with intent to evade the motor vehicle usage tax or the registration fee shall be guilty of a Class A misdemeanor if the amount of tax due is less than one hundred dollars (\$100), or of a Class D felony if the amount of tax due is more than one hundred dollars (\$100), and in addition shall be liable for all taxes so evaded with applicable interest and penalties.

Section 6. KRS 186A.205 is amended to read as follows:

Whenever a security interest is assigned as provided by KRS 186.045(4)~~((4))~~, the county clerk of a county that is operating under automated procedures shall, in addition to carrying out his requirements stated therein, enter the record of lien assignment into the automated system in the manner directed by the Department of Vehicle Regulation.

Approved March 18, 2003

CHAPTER 104

(HB 389)

AN ACT relating to quarter horse racing.

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

Section 1. KRS 230.210 is amended to read as follows:

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

- (1) "Association" means any person licensed by the Kentucky Racing Commission under KRS 230.300 and engaged in the conduct of a recognized horse race meeting;
- (2) "Commission" means the Kentucky Racing Commission;
- (3) "Commissioner" means a commissioner of the Kentucky Racing Commission;
- (4) "Thoroughbred race or thoroughbred racing" means a form of horse racing in which each horse participating in the race is a thoroughbred, (i.e., meeting the requirements of and registered with The Jockey Club of New York) and is mounted by a jockey;
- (5) "Harness race" or "harness racing" means trotting and pacing races of the standardbred horses;
- (6) "Appaloosa race or Appaloosa racing" means that form of horse racing in which each horse participating in the race is registered with the Appaloosa Horse Club of Moscow, Idaho, and is mounted by a jockey;
- (7) "Horse race meeting" means horse racing run at an association licensed and regulated by the Kentucky Racing Commission, and may include thoroughbred,~~and~~ harness, **and quarter horse** racing;
- (8) "Quarter horse" means a horse that is registered with the American Quarter Horse Association of Amarillo, Texas;
- (9) "Arabian" means a horse that is registered with the Arabian Horse Registry of Denver, Colorado;
- (10) "Track" means any association duly licensed by the Kentucky Racing Commission to conduct horse racing. "Track" shall include any facility or real property that is owned, leased, or purchased by a track within the same geographic area within a sixty (60) mile radius of a track but not contiguous to track premises, upon commission approval, and provided the noncontiguous property is not within a sixty (60) mile radius of another licensed track premise where live racing is conducted and not within a forty (40) mile radius of a simulcast facility, unless any affected track or simulcast facility agrees in writing to permit a noncontiguous facility within the protected geographic area;
- (11) "Simulcast facility" means any facility approved pursuant to the provisions of KRS 230.380 to simulcast racing and conduct pari-mutuel wagering;
- (12) "Simulcasting" means the telecast of live audio and visual signals of horse races for the purpose of pari-mutuel wagering;
- (13) "Intertrack wagering" means pari-mutuel wagering on simulcast horse races from a host track by patrons at a receiving track;
- (14) "Interstate wagering" means pari-mutuel wagering on simulcast horse races from a track located in another state or foreign country by patrons at a receiving track or simulcast facility;

- (15) "Host track" means the track conducting racing and offering its racing for intertrack wagering, or, in the case of interstate wagering, means the Kentucky track conducting racing and offering simulcasts of races conducted in other states or foreign countries;
- (16) "Receiving track" means a track where simulcasts are displayed for wagering purposes. A track that submits an application for intertrack wagering shall meet all the regulatory criteria for granting an association license of the same breed as the host track, and shall have a heated and air-conditioned facility that meets all state and local life safety code requirements and seats a number of patrons at least equal to the average daily attendance for intertrack wagering on the requested breed in the county in which the track is located during the immediately preceding calendar year;
- (17) "Telephone account wagering" means a form of pari-mutuel wagering where an individual may deposit money in an account at a track and may place a wager by direct telephone call or by communication through other electronic media owned by the holder of the account to the track; and
- (18) "Principal" means any of the following individuals associated with a partnership, trust, association, limited liability company, or corporation that is licensed to conduct a horse race meeting or an applicant for a license to conduct a horse race meeting:
- (a) The chairman and all members of the board of directors of a corporation;
 - (b) All partners of a partnership and all participating members of a limited liability company;
 - (c) All trustees and trust beneficiaries of an association;
 - (d) The president or chief executive officer and all other officers, managers, and employees who have policy-making or fiduciary responsibility within the organization;
 - (e) All stockholders or other individuals who own, hold, or control, either directly or indirectly, ten percent (10%) or more of stock or financial interest in the collective organization; and
 - (f) Any other employee, agent, guardian, personal representative, or lender or holder of indebtedness who has the power to exercise a significant influence over the applicant's or licensee's operation.
- (19) ***"Kentucky Quarter Horse Purse Program" means a purse program established to receive funds from the commission for purse programs established in subsection (4) of Section 3 of this Act to supplement purses for quarter horse races. The purse program shall be administered by the Kentucky Quarter Horse Racing Association.***

Section 2. KRS 230.377 is amended to read as follows:

- (1) Other provisions of the Kentucky Revised Statutes notwithstanding, a track may apply to the commission for simulcasting and intertrack wagering dates. Applications shall be submitted in accordance with KRS 230.300. The commission shall not approve the establishment or relocation of a receiving track within a radius of seventy-five (75) miles of a race track duly licensed as of July 15, 1992, without the prior written consent of the licensed track within whose seventy-five (75) mile radius the new receiving track would be located.
- (2) On or before November 1 of each year, the commission shall meet and award intertrack wagering dates to all tracks for the entire succeeding calendar year. In a geographic area containing more than one (1) track within a fifty (50) mile radius of another track, intertrack wagering, ***except for quarter horse racing***, shall be limited to simulcasting and wagering on racing of the same breed of horse as the receiving track was licensed to race on or before July 15, 1998.
- (3) The commission shall approve no more than nine (9) tracks for participation in horse racing, intertrack wagering, and simulcasting. Any approval by the commission of a change in location of these tracks shall be subject to the local-approval process contained in KRS 230.380.
- (4) A track may by administrative regulation be required to simulcast its races to one (1) or more receiving tracks approved for simulcasting and intertrack wagering, as a prerequisite for the issuance of a license pursuant to KRS 230.300, provided that:
 - (a) Each track shall be permitted to exempt one (1) day of racing from simulcasting to both receiving tracks and simulcast facilities, at its discretion;
 - (b) Tracks in a county containing a city of the first class or a consolidated local government and tracks in an urban-county government shall not be required to simulcast to each other or to any other facility in those

counties. This provision shall not be construed as requiring tracks within the same county to simulcast to each other; and

- (c) In the absence of a contract between a host track and a receiving track, the commission shall be split as provided for in KRS 230.378(3).
- (5) A track may receive simulcasts and conduct interstate wagering thereon subject to the following limitations which shall be in addition to the limitations set forth in KRS 230.3771:
 - (a) A track licensed to conduct thoroughbred racing may receive simulcasts and conduct interstate wagering on all thoroughbred horse races designated as graded stakes races by the Graded Stakes Committee of the Thoroughbred Owners and Breeders Association, Inc., without further consents or approvals.
 - (b) A track licensed to conduct harness racing may receive simulcasts and conduct interstate wagering on all harness horse races (both final and elimination) having a final purse in excess of seventy-five thousand dollars (\$75,000) without further consents or approvals.
 - (c) *A track licensed to conduct quarter horse racing may receive simulcasts and conduct interstate wagering on all quarter horse races designated as graded stakes races by the graded stakes committee of the American Quarter Horse Association, without further consents or approvals.*
 - (d) A track which applies to the commission to receive an interstate race of a different breed than the breed for which it is licensed by the commission shall receive any simulcast of an interstate race through the intertrack wagering system upon approval by the commission. *Notwithstanding the foregoing, a track licensed to conduct horse racing may receive simulcasts and conduct interstate wagering on quarter horse races, subject to the limitations of Section 3 of this Act.*
 - ~~(e)(d)~~ A track may receive simulcasts of special event races conducted in other states or foreign countries which are determined by the commission to be of sufficient national or international significance or interest to warrant interstate wagering and if the simulcast of these races has been approved by the Kentucky Thoroughbred Owners and Breeders Association, Inc., the Kentucky Division of the Horseman's Benevolent and Protective Association, for thoroughbred races, and the Kentucky Harness Horsemen's Association for harness racing, and any track conducting live horse races of the same breed at the same time as the simulcast race.
 - ~~(f)(e)~~ A track may also receive simulcasts and conduct interstate wagering on thoroughbred horse races other than those described in paragraphs (a) and ~~(e)(d)~~ of this subsection if the simulcast of these races has been approved by the Kentucky Thoroughbred Owners and Breeders Association, Inc., and the Kentucky Horsemen's Benevolent and Protective Association, for thoroughbred races, and the Kentucky Harness Horsemen's Association, or its successor, for harness racing.
 - ~~(g)(f)~~ The consent required by paragraph ~~(f)(e)~~ of this subsection or by subsections (1)(g) and (2)(g) of KRS 230.3771 shall not be withheld:
 1. For any reason not specifically related to financial harm to live horse racing; or
 2. As a condition to the granting of any contractual or other concession not specifically related to the effects of interstate simulcasting on live horse racing in this Commonwealth, taken as a whole.
 - ~~(h)(g)~~ A host track located in this state may receive simulcasting of not more than two (2) full cards of racing from another state, if both tracks race horses of the same breed and if:
 1. The race date was previously granted by the Kentucky Racing Commission to conduct live racing at the track located in this state;
 2. Live racing was canceled due to weather conditions; and
 3. The consent required by paragraph ~~(e)(d)~~ of this subsection is obtained.
 - ~~(i)(h)~~ The in-state track receiving the simulcast specified in paragraph ~~(h)(g)~~ of this subsection shall offer that simulcast to all participating tracks and simulcast facilities in the intertrack wagering system.
 - ~~(j)(i)~~ All interstate simulcasting shall be conducted in accordance with applicable federal laws.

- (6) The commission may promulgate necessary and reasonable administrative regulations for the purpose of administering the conduct of intertrack or interstate wagering and regulating the conditions under which wagering shall be held and conducted. Administrative regulations shall provide for the prevention of practices detrimental to the public interest and to impose penalties for violations. All administrative regulations shall be in conformity with the provisions of KRS Chapter 13A, KRS 138.510, and this chapter.
- (7) Subsections (2) and (3) of this section shall apply only to intertrack wagering dates awarded for calendar year 1993 and thereafter, and any unresolved intertrack wagering dates for calendar year 1992 shall be awarded pursuant to applicable provisions of law in effect immediately prior to March 30, 1992.

Section 3. KRS 230.3771 is amended to read as follows:

- (1) A thoroughbred track licensed to conduct thoroughbred racing may receive interstate simulcasts of thoroughbred horse races *and quarter horse races*, and conduct interstate wagering thereon, subject to the following limitations:
 - (a) A thoroughbred receiving track may receive interstate simulcasts of thoroughbred races and conduct interstate wagering thereon at any time of day and during any live thoroughbred horse race meet conducted in the Commonwealth of Kentucky so long as the thoroughbred receiving track conducting interstate wagering remits to the thoroughbred host track conducting a live meet, from the first awarded day of its live meet through the last awarded day of the same live meet, the amounts provided in paragraph (j) of this subsection.
 - (b) A thoroughbred host track which receives interstate simulcasts and conducts interstate wagering thereon during the period of time from the first awarded day of its live meet through the last awarded day of its live meet shall offer the simulcasts to all thoroughbred receiving tracks, all harness tracks not subject to the provisions of KRS 230.377(2), and all simulcast facilities through the intertrack wagering system.
 - (c) Except as otherwise prohibited by law, a receiving track shall conduct intertrack wagering on all live races of all thoroughbred host tracks on any day on which it receives an interstate simulcast for the purpose of conducting interstate wagering.
 - (d) No host track shall require that any receiving track or simulcast facility receive the interstate simulcast.
 - (e) If more than one (1) thoroughbred track conducts live racing at the same time on the same day, no track or simulcast facility may receive an interstate simulcast of thoroughbred races unless all thoroughbred tracks conducting live racing at the same time of day agree upon all interstate simulcasts to be received and the division of the thoroughbred host track's commission. If more than one (1) thoroughbred track conducts live racing at different times on the same day, the thoroughbred host track with the highest average daily handle, based on the preceding year, shall be the host track for purposes of splitting the commissions earned on interstate wagering at receiving tracks within the Commonwealth. For purposes of this subsection, average daily handle includes live handle, intertrack wagering handle, and simulcast facility handle. Also for purposes of this subsection, the time of day during which a host track conducts live racing commences with its first published post time and concludes ten (10) minutes after the published post time of its last race of the day, regardless of actual post times.
 - (f) Each thoroughbred track which desires to conduct interstate wagering pursuant to the provisions of this subsection shall during each year make application to the commission for no less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 and one hundred percent (100%) of the number of races scheduled to be run by the track in 1993.
 - (g) Notwithstanding subsection (f) of this subsection, any thoroughbred track may apply for less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 or one hundred percent (100%) of the number of races scheduled to be run by the track in 1993, if written approval is obtained from the Kentucky Horsemen's Benevolent and Protective Association and the Kentucky Thoroughbred Owners and Breeders Association, Inc.
 - (h) A separate accounting on all interstate simulcasting shall be submitted to the commission. The accounting shall be submitted in the same format and at the same time that the report for intertrack wagering is submitted.
 - (i) If the only simulcast or simulcasts a track participating as a host track makes available for interstate wagering through this state's intertrack wagering system on any race day are thoroughbred horse races designated as graded stakes races by the Graded Stakes Committee of the Thoroughbred Owners and

Breeders Association, Inc., then the commission of the receiving track on these interstate wagers shall be split as prescribed by KRS 230.378(3); otherwise, the commission of the receiving track shall be split as prescribed by paragraph (j) of this subsection. Interstate simulcasts received by a thoroughbred host track under the conditions set forth in this paragraph shall not be subject to the conditions set forth in paragraphs (b), (c), (e), and (f) of this subsection.

- (j) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:
 - 1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;
 - 2. Twenty-five percent (25%) to the thoroughbred host track designated by paragraphs (a) and (e) of this subsection. However, if the race does not occur between the first awarded day of a live meet and the last awarded day of the same live meet, an additional twenty-five percent (25%) shall be retained by the receiving track where the interstate wagering occurs;
 - 3. Twenty-five percent (25%) to the purse program of the receiving track where the interstate wagering occurs; and
 - 4. Twenty-five percent (25%) to the purse program of the thoroughbred host track designated by paragraphs (a) and (e) of this subsection. However, if the race does not occur between the first awarded day of a live meet and the last awarded day of the same live meet, then an additional twenty-five percent (25%) shall be paid to the purse program of the receiving track where the interstate wagering occurs.
- (k) A simulcast facility's commission on interstate wagering on thoroughbred racing, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as provided in KRS 230.380(9).
- (2) A harness track licensed to conduct harness racing may receive interstate simulcasts of harness horse races and conduct interstate wagering thereon subject to the following limitations:
 - (a) A harness receiving track may receive interstate simulcasts of harness races *and quarter horse races*, and conduct interstate wagering thereon at any time of day and during the course of any live harness horse race meet conducted in the Commonwealth of Kentucky so long as the harness receiving track conducting interstate wagering remits to the harness host track conducting a live meet, from the first awarded day of its live meet through the last awarded day of the same live meet, the amounts provided in paragraph (j) of this subsection.
 - (b) A harness host track which receives an interstate simulcast and conducts interstate wagering thereon during its live race meet shall offer the simulcasts to all thoroughbred receiving tracks not subject to the provisions of KRS 230.377(2), all harness tracks, and all simulcast facilities through the intertrack wagering system.
 - (c) Except as otherwise prohibited by law, a harness receiving track or a simulcast facility shall conduct intertrack wagering on all live races of a harness host track on any day it receives an interstate simulcast from a harness host track.
 - (d) No host track shall require that any receiving track or simulcast facility receive the interstate simulcast.
 - (e) If more than one (1) harness track conducts live racing at the same time on the same day, no track or simulcast facility may receive an interstate simulcast on harness races unless all harness tracks conducting live racing at that time of day agree upon the interstate simulcast to be received and the division of the harness host track's commission. If more than one (1) harness track conducts live racing at different times on the same day, the harness host track with the highest average daily handle, based on the preceding year, shall be the host track for purposes of splitting the commissions earned on interstate wagering at receiving tracks within the Commonwealth. For purposes of this subsection, average daily handle includes live handle, intertrack wagering handle, and simulcast facility handle. Also for purposes of this subsection, the time of day during which a host track conducts live racing commences with its first published post time and conclude ten (10) minutes after the published post time of its last race of the day, regardless of actual post times.

- (f) Each harness track which desires to conduct interstate wagering pursuant to the provisions of this subsection shall during each year make application to the commission for no less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 and one hundred percent (100%) of the number of races scheduled to be run by the track in 1993.
 - (g) Notwithstanding subsection (f) of this subsection, any harness track may apply for less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 or one hundred percent (100%) of the number of races scheduled to be run by the track in 1993, if written approval is obtained from the Kentucky Harness Horsemen's Association, or its successor.
 - (h) A separate accounting on all interstate simulcasting shall be submitted to the commission. This accounting shall be submitted in the same format and at the same time that the report for intertrack wagering is submitted.
 - (i) If the only simulcast or simulcasts a track participating as a harness host track makes available for interstate wagering through this state's intertrack wagering system on any race day are harness horse races (both final and elimination) having a final purse in excess of seventy-five thousand dollars (\$75,000), then the commission of the receiving track on these interstate wagers shall be split as prescribed by KRS 230.378(3); otherwise, the commission of the receiving track shall be split as prescribed by paragraph (j) of this subsection. Interstate simulcasts received by a harness host track under the conditions set forth in this paragraph shall not be subject to the conditions set forth in paragraphs (b), (c), (e), and (f) of this subsection.
 - (j) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:
 - 1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;
 - 2. Twenty-five percent (25%) to the harness host track designated by paragraphs (a) and (e) of this subsection. However, if no live meet is occurring, an additional twenty-five percent (25%) shall be retained by the receiving track where the interstate wagering occurs;
 - 3. Twenty-five percent (25%) to the purse program of the receiving track where the interstate wagering occurs; and
 - 4. Twenty-five percent (25%) to the purse program of the harness host track designated by paragraphs (a) and (e) of this subsection. However, if no live meet is occurring, an additional twenty-five percent (25%) shall be paid to the purse program of the receiving track where the interstate wagering occurs.
 - (k) A simulcast facility's commission on interstate wagering on harness races, after deduction of applicable taxes and any amount required to be paid by contract to the track from which the interstate simulcast originated, shall be split as provided in KRS 230.380(9).
- (3) A harness track may only receive interstate simulcasts of thoroughbred horse races and conduct interstate wagering thereon as provided in subsection (1)(b) of this section. A thoroughbred track may only receive interstate simulcasts of harness horse races and conduct interstate wagering thereon as provided in subsection (2)(b) of this section. A simulcast facility may only receive interstate simulcasts of thoroughbred and harness horse races and conduct interstate wagering thereon as provided in subsections (1)(b) and (2)(b) of this section.
- (4) (a) *A thoroughbred track licensed to conduct horse racing may receive interstate simulcasts of quarter horse races and conduct interstate wagering thereon, subject to the limitations stated in paragraph (b) of this subsection.*
- (b) *A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:*
- 1. *Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;*
 - 2. *Twenty-five percent (25%) to the host track; and*

3. *Fifty percent (50%) to the quarter horse purse program within this state, to be allocated by the American Quarter Horse Association or its successor to supplement purses for quarter horse races in this state.*
- (5) (a) *A harness track licensed to conduct horse racing may receive interstate simulcasts of quarter horse races and conduct interstate wagering thereon, subject to the limitations stated in paragraphs (b) and (c) of this subsection.*
- (b) *A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:*
 1. *Twenty-five percent (25%) to the purse program of the receiving track;*
 2. *Twenty-five percent (25%) to the purse program of the host track;*
 3. *Twenty-five percent (25%) to the receiving track; and*
 4. *Twenty-five percent (25%) to the host track.*
- (c) *When a quarter horse race is run at a Kentucky race track, the commission to the Kentucky Quarter Horse Purse Program shall be twenty-two percent (22%) from the host track's purse share.*
- (6) *Other provisions of the Kentucky Revised Statutes notwithstanding, any track in a geographic area that contains more than one (1) track within a fifty (50) mile radius of any other track may only receive interstate simulcasts on racing of the same breed of horse as the track was licensed to race on or before July 15, 1998, except any track may receive interstate simulcasts on quarter horse races.*

Approved March 18, 2003

CHAPTER 105

(HB 403)

AN ACT relating to county treasurers.

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

Section 1. KRS 68.010 is amended to read as follows:

Notwithstanding the provisions of KRS 67.710, or any other statute:

- (1) (a) The fiscal court of each county, by June 30 every four (4) years, beginning with June, 1999, shall appoint a county treasurer for a term of four (4) years.
- (b) In 1998, the fiscal court of each county, by June 30, shall appoint a county treasurer for a term of one (1) year. In 1999 and every four (4) years thereafter, the fiscal court of each county shall appoint a county treasurer for a term of four (4) years pursuant to paragraph (a) of this subsection.
- (c) If for any reason the county treasurer is not appointed at the regular June meeting, the county judge/executive shall call the fiscal court to meet on a day fixed by order entered on the order book of the court, and the meeting shall be held before the end of June.
- (2) The county treasurer shall take office on the July 1st immediately following his appointment.
- (3) No person is eligible to be county treasurer unless at the time of his appointment he is a citizen of Kentucky, is at least twenty-five (25) years old ***or has obtained a baccalaureate level degree from a regionally accredited institution of higher education***~~and has been for the two (2) years next preceding his appointment a resident of the county for which he is appointed~~. The county treasurer shall take the constitutional oath of office before the fiscal court, and shall execute bond with at least two (2) reputable sureties, to be approved by the fiscal court. The fiscal court may pay the premium on the bond from county funds.
- (4) If, at any time, the county treasurer is unable to perform the duties of this office because of illness, physical or mental incapacity, or other cause beyond his control for more than thirty (30) days, or if there is a vacancy created in the office by the resignation or death of the current county treasurer, then the fiscal court shall appoint, at either a regular term or a special term called by the county judge/executive, an acting county

treasurer to serve until the current county treasurer is able to resume the performance of his duties, or in the case of the resignation or death of the treasurer, until the end of the current county treasurer's term of office. Should the fiscal court be in doubt as to the treasurer's ability to resume his duties, it shall consult with a licensed physician acceptable to both the fiscal court and the treasurer. If the physician advises that the treasurer is able to perform his duties, the treasurer shall be reinstated within ten (10) days. As soon as the treasurer is reinstated, the acting county treasurer shall cease to act as county treasurer and shall turn over to the county judge/executive all records and accounts and shall make a final settlement with the fiscal court within thirty (30) days. The fiscal court may remove the county treasurer or acting county treasurer at any time for neglect of duty, incompetency, or dishonesty.

Approved March 18, 2003

CHAPTER 106

(HB 427)

AN ACT relating to in-service training requirements for local government employees mobilized for service in the United States Armed Forces.

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

Section 1. KRS 95A.230 is amended to read as follows:

Each local government which meets the following requirements shall be eligible to share in the distribution of funds from the fund:

- (1) Employs one (1) or more firefighters.
- (2) Pays every firefighter a minimum annual salary of eight thousand dollars (\$8,000).
- (3) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the commission, for employment of firefighters on or after August 1, 1980. All firefighters employed prior to August 1, 1980, shall be deemed to have met requirements of this subsection.
- (4) Requires all firefighters employed on or after July 15, 1982, to successfully complete a basic training course of a minimum of four hundred (400) hours duration as mandated by the commission as to subject matter and number of hours for each subject, within one (1) year of the date of employment at a school or method certified or recognized by the commission.
- (5) Requires all firefighters, whether originally employed before or after August 1, 1980, to successfully complete in each calendar year an in-service training program appropriate to the firefighters rank and responsibility, of at least one hundred (100) hours duration at a school certified or recognized by the commission. ***This requirement shall be waived for the period of time that a professional firefighter is serving on active duty in the United States Armed Forces. This waiver shall be retroactive for professional firefighters from the date of September 11, 2001.***
- (6) Requires compliance with all provisions of law applicable to local firefighters.
- (7) Requires compliance with all rules and regulations, appropriate to the size and location of the local fire department or fire prevention district, issued by the commission to facilitate the administration of the fund and further the provisions of KRS 95A.200 to 95A.300.

Section 2. KRS 15.440 is amended to read as follows:

- (1) Each local unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:
 - (a) Employs one (1) or more police officers;
 - (b) Pays every police officer at least the minimum federal wage;
 - (c) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky Law Enforcement Council, for employment of police officers on or after July 1, 1972, and for all sheriffs appointed or elected on or after July 15, 1998, and all deputy sheriffs, and state or public university police officers employed after July 15, 1998; provided, however, that all police officers employed prior to July 1, 1972, shall be deemed to have met the requirements of this

subsection, and that all sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to July 15, 1998 shall be deemed to have met the requirements of this subsection;

- (d) Requires all police officers employed on or after July 1, 1972, and all sheriffs appointed or elected on or after July 15, 1998, and deputy sheriffs, and state or public university police officers employed on or after January 1, 1998, to successfully complete a basic training course of at least six hundred forty (640) hours' duration within one (1) year of the date of employment at a school certified or recognized by the Kentucky Law Enforcement Council. All sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to January 1, 1998, shall be deemed to have met the requirements of this subsection. The council may, by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, set the number of hours for basic training at a number higher than six hundred forty (640) hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis;
 - (e) Requires all police officers, whether originally employed before or after July 1, 1972, and all sheriffs appointed or elected before, on, or after July 15, 1998, and all deputy sheriffs and state or public police officers employed before, on, or after July 15, 1998, to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least forty (40) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council. ***This requirement shall be waived for the period of time that a peace officer is serving on active duty in the United States Armed Forces. This waiver shall be retroactive for peace officers from the date of September 11, 2001;***
 - (f) Requires compliance with all provisions of law applicable to local police, state or public university police, or sheriffs and their deputies, including transmission of data to the centralized criminal history record information system as required by KRS 17.150; and
 - (g) Requires compliance with all reasonable rules and regulations, appropriate to the size and location of the local police department, state or public university police department, or sheriff's office, issued by the Justice Cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;
- (2) No local unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund unless the local police department, state or public university police department, or sheriff's office actually begins and continues to comply with the requirements of this section; provided, further, that no local unit shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund until the local police department, state or public university police department, or sheriff's office has substantially complied with subsection (1)(f) and (g) of this section.
 - (3) A sheriff's office shall not lose eligibility to share in the distribution of funds from the Law Enforcement Foundation Program fund if the sheriff does not participate in the Law Enforcement Foundation Program fund.

Approved March 18, 2003

CHAPTER 107

(HB 493)

AN ACT relating to corrections and declaring an emergency.

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

Section 1. KRS 197.505 is amended to read as follows:

- (1) The state may enter into contracts with a private provider to establish, operate, and manage adult correctional facilities. In all such contracts the state shall retain clear supervisory and monitoring powers over the operation and management of the adult correctional facility to insure that the inmates are properly cared for and that the employees of the facility and the public are adequately protected.

- (2) ***Any adult correctional facility operated by a private provider under this section shall ensure that all inmates housed in the facility, including those inmates housed under contract with another state, shall meet classification requirements as set forth by the department for the designated security level of the facility.*** ~~No inmate who is ineligible to work or be released outside the walls of the prison pursuant to KRS 197.140 shall be placed in an adult correctional facility that has been contracted for pursuant to this section.~~
- (3) ~~Any restricted custody inmate placed in a private prison shall be housed in a facility with a perimeter fence.~~
- (4) ~~Any adult correctional facility contracted for pursuant to this section shall be constructed only in a county with an established Kentucky State Police post or in a county in which at least two (2) State Police officers reside as a result of a duty assignment or in a county with a full-time police department.~~

Section 2. Whereas a 90-day delay in the effective date of this legislation would endanger the continued employment and livelihood of the many Kentuckians who have relied upon the operation of private correctional facilities in providing for themselves and their families, and that delay would create serious downstream economic harm to those who provide the facilities and its employees with goods or services, and whereas it is incumbent upon the General Assembly, as the people's branch of government, to utilize its inherent lawmaking authority to protect and promote the general livelihood of Kentucky's citizenry, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved March 18, 2003

CHAPTER 108

(HB 501)

AN ACT relating to individuals with disabilities.

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

Section 1. KRS 205.6317 is amended to read as follows:

- (1) As used in this section:
- (a) "Supports for Community Living Waiver Program" means funding from the Department for Medicaid Services to serve individuals with mental retardation or other developmental disabilities who qualify for intermediate care and choose to live in a community-based setting ***and includes funding for a self-determination model, as recommended by the Commission on Services and Supports for Individuals with Mental Retardation and Other Developmental Disabilities under subsection (2) of Section 2 of this Act, that provides the ability for the individual receiving services and supports to personally control, with appropriate assistance, a targeted amount of dollars;*** and
- (b) "Slots" means the dedication of provider or financial resources for services to persons with mental retardation or other developmental disabilities.
- (2) The Department for Medicaid Services shall develop and implement flexible reimbursement and payment strategies that reflect the individually determined needs for services and supports by persons with mental retardation and other developmental disabilities participating in the Supports for Community Living Waiver Program.
- (3) The Department for Medicaid Services shall allocate slots to the fourteen (14) community mental health regions based on percentage of total population.
- (4) The Department for Medicaid Services shall reallocate underutilized slots to address statewide needs and shall reallocate slots in emergency situations to address unmet needs for services and supports.
- (5) ~~Within six (6) months after April 14, 2000,~~ The Department for Medicaid Services shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the requirements of this section.
- (6) Funds for the Supports for Community Living Waiver Program shall be appropriated only for direct services to qualified individuals and any unexpended funds shall not lapse but shall be carried forward to the next fiscal year and shall be used for the same purpose.

Section 2. KRS 210.577 is amended to read as follows:

- (1) The commission created in KRS 210.575 shall meet at least quarterly~~[during the 2000-2001 biennium, at least biennially thereafter,]~~ or upon the call of the chair, the request of four (4) or more members, or the request of the Governor.
- (2) The commission shall serve in an advisory capacity to accomplish the following:
 - (a) Advise the Governor and the General Assembly concerning the needs of persons with mental retardation and other developmental disabilities;
 - (b) Develop a statewide strategy to increase access to community-based services and supports for persons with mental retardation and other developmental disabilities. The strategy shall include:
 1. Identification of funding needs and related fiscal impact; and
 2. Criteria that establish priority for services~~[for individuals approved for slots]~~ that consider timeliness and service needs;
 - (c) Assess the need and potential utilization of specialized outpatient clinics for medical, dental, and special therapeutic services for persons with mental retardation and other developmental disabilities;
 - (d) Evaluate the effectiveness of state agencies and public and private service providers, including nonprofit and for-profit service providers, in:
 1. Dissemination of information and education;
 2. Providing outcome-oriented services; and
 3. Efficiently utilizing available~~[slots]~~ and resources, including blended funding streams;
 - (e) Develop a recommended comprehensive ten (10) year plan for placement of qualified persons in the most integrated setting appropriate to their needs;
 - (f) Recommend an effective quality assurance and consumer satisfaction monitoring program that includes recommendations as to the appropriate role of family members, persons with mental retardation and other developmental disabilities, and advocates in quality assurance efforts;~~[and]~~
 - (g) *Develop recommendations for the implementation of a self-determination model of funding services and supports as established under subsection (1) of Section 1 of this Act for persons who are receiving services or supports under the Supports for Community Living Program as of the effective date of this Act. The model shall include, but is not limited to, the following:*
 1. *The ability to establish an individual rate or budget for each person;*
 2. *Mechanisms to ensure that each participant has the support and assistance necessary to design and implement a package of services and supports unique to the individual;*
 3. *The ability to arrange services, supports, and resources unique to each person based upon the preferences of the recipient; and*
 4. *The design of a system of accountability for the use of public funds.*

The chairperson of the commission shall appoint an ad-hoc committee composed of commission members and other interested parties to develop the recommendations required by this paragraph; and
 - (h) Advise the Governor and the General Assembly on whether the recommendations should be implemented by administrative regulations or proposed legislation~~[for the 2002 General Assembly].~~
- ~~(3) Within six (6) months after April 14, 2000, the secretary of the Cabinet for Health Services shall present the plan to the Governor and the members of the General Assembly.~~
- ~~(4) The commission shall review the plan annually and shall submit annual updates no later than October 1 to the Governor and the Legislative Research Commission.~~
- ~~(5) The commission shall cease to exist four (4) years after April 14, 2000, unless otherwise reauthorized by the General Assembly.~~

SECTION 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

Section 1 of this Act may be cited as the Kevin Webb and Kim Brown Self-Determination Act.

Approved March 18, 2003

CHAPTER 109

(HCR 39)

A CONCURRENT RESOLUTION confirming the reappointment of R. Keith Travis to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has reappointed R. Keith Travis as a member of the Kentucky Board of Education representing the First Supreme Court District for a term expiring April 14, 2006; and

WHEREAS, by letter dated May 10, 2002, the Governor has delivered R. Keith Travis' 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 R. Keith Travis 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 R. Keith Travis to the Kentucky Board of Education for a term ending April 14, 2006.

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, Frankfort, Kentucky 40601 and R. Keith Travis, 4290 Lakeview Church Road, Benton, Kentucky 42025, in writing, of the General Assembly's action.

Approved March 18, 2003

CHAPTER 110

(HCR 40)

A CONCURRENT RESOLUTION confirming the appointment of Janice B. Allen to the Kentucky Board of Education.

WHEREAS, in accordance with KRS 156.029, the Governor has appointed Janice B. Allen as a member of the Kentucky Board of Education representing the Seventh Supreme Court District to replace William R. Weinberg, who has resigned, for the remainder of the unexpired term ending April 14, 2006; and

WHEREAS, appointment to the Kentucky Board of Education is subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, by letter dated December 19, 2002, the Governor has delivered Janice B. Allen'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 Janice B. Allen 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 appointment of Janice B. Allen as a member of the Kentucky Board of Education representing the Seventh Supreme Court District to replace William R. Weinberg, who has resigned, for the remainder of the unexpired term ending April 14, 2006.

Section 2. The Clerk of the House of Representatives shall notify Janice B. Allen, 1135 South Lake Drive, Prestonsburg, Kentucky 41653 and Governor Paul E. Patton, State Capitol, Room 100, Frankfort, Kentucky 40601, in writing, of the General Assembly's action.

Approved March 18, 2003

CHAPTER 111

(HCR 42)

A CONCURRENT RESOLUTION confirming the appointment of Dorothy Z. Combs to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed Dorothy Z. Combs as a member of the Kentucky Board of Education representing the Fifth Supreme Court District for a term expiring April 14, 2006; and

WHEREAS, by letter dated May 10, 2002, the Governor has delivered Dorothy Z. Combs' 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 Dorothy Z. 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 appointment of Dorothy Z. Combs, Ph.D. to the Kentucky Board of Education for a term ending April 14, 2006.

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, Frankfort, Kentucky 40601 and Dorothy Z. Combs, Ph.D., 520 Farmington Court, Richmond, Kentucky 40475, in writing, of the General Assembly's action.

Approved March 18, 2003

CHAPTER 112

(HCR 43)

A CONCURRENT RESOLUTION confirming the appointment of David B. Tachau to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed David B. Tachau as a member of the Kentucky Board of Education representing the Fourth Supreme Court District for a term expiring April 14, 2006; and

WHEREAS, by letter dated May 10, 2002, the Governor has delivered David B. Tachau'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 David B. Tachau 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 appointment of David B. Tachau to the Kentucky Board of Education for a term ending April 14, 2006.

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, Frankfort, Kentucky 40601 and David B. Tachau, 3710 Fairway Lane, Louisville, Kentucky 40207, in writing, of the General Assembly's action.

Approved March 18, 2003

CHAPTER 113**(HCR 84)**

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 November 14, 2002, by Executive Order 2002-1276, the Governor appointed Daniel C. Case to the Agricultural Development Board for a term expiring July 6, 2006; and

WHEREAS, Daniel C. Case has been appointed as meeting the requirements of KRS 248.707, being experienced in agricultural lending 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 Daniel C. Case to the Agricultural Development Board for a term to expire on July 6, 2006.

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 18, 2003

CHAPTER 114**(HCR 86)**

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 November 14, 2002, by Executive Order 2002-1276, the Governor appointed Wayne Hunt to the Agricultural Development Board for a term expiring July 6, 2006; and

WHEREAS, Wayne Hunt has been appointed as meeting the requirements of KRS 248.707, being an active farmer and agri-businessman for 40 years 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 Wayne Hunt to the Agricultural Development Board for a term to expire on July 6, 2006.

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 18, 2003

CHAPTER 115**(HB 40)**

AN ACT relating to student financial aid.

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

Section 1. KRS 164.753 is amended to read as follows:

- (1) In the instance of loans, the rules and regulations adopted by the board may include, but not be limited to, those which:
 - (a) Are necessary to qualify the authority as an insured lender under the Higher Education Act of 1965, as amended;
 - (b) Require that loans be made only to those eligible students who are unable to secure comparable loans from private lenders; and
 - (c) Are necessary to qualify the authority as a lender under the Public Health Service Act, as amended.
- (2) In the instance of insured student loans and loan guarantees, the rules and regulations adopted by the board shall include, but not be limited to, those which are necessary to qualify the authority to insure loans under the federal act, as amended, and following such qualification to issue loan guarantees to participating lenders on any loans advanced by such lenders to eligible students attending or planning to attend any participating institution, except that the total amount of all insured student loans that may be guaranteed by the authority shall not at any time exceed fifteen (15) times the loan guarantee fund balance. In determining the total amount of insured student loans that may be guaranteed by the authority, there shall be excluded from the computation of required loan guarantee fund balances eighty percent (80%) of the amount of insured student loans which are reinsured with the United States or any agency thereof pursuant to the federal act.
- (3) In the instance of scholarships, the rules and regulations adopted by the board shall include, but not be limited to, those which:
 - (a) Specify ways in which superior academic achievement or ability or special talents will be identified and measured;
 - (b) Ensure that the amount of scholarship to a student attending or planning to attend a participating institution will not exceed the financial need of the student as determined in accordance with paragraph (f) of this subsection, or the maximum scholarship as established by the board, whichever is less;
 - (c) Restrict scholarships to persons who are classified as resident students under the rules and regulations of the Council on Postsecondary Education~~and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma or degree in theology, divinity or religious education~~;
 - (d) Ensure that scholarships are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;
 - (e) Ensure that scholarships are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and
 - (f) Ensure, by such needs analysis as the authority may require, that the person is in need of the assistance in order to enroll in or complete an eligible program of study as defined by the board.
- (4) In the instance of grants, the rules and regulations adopted by the board shall include, but not be limited to, those which:
 - (a) Ensure that the amount of a grant to a student will not exceed the financial need of the student as determined in accordance with paragraph (e) of this subsection or the maximum grant as established by the board, whichever is less;
 - (b) Restrict grants to persons who are classified as resident students under the rules and regulations of the Council on Postsecondary Education~~and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma, or degree in theology, divinity, or religious education~~;

- (c) Ensure that grants are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;
 - (d) Ensure that grants are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and
 - (e) Ensure, by such needs analysis as the authority may require, that grants be made only to students who have insufficient financial resources to enroll in or complete an eligible program of study as defined by the board.
- (5) Funds appropriated to the financial assistance program established by KRS 164.780 and 164.785 shall be administered by the board in accordance with the provisions of KRS 164.780 and 164.785.
- (6) In the instance of work-study payments, rules and regulations adopted by the board shall include, but not be limited to, those which require that:
- (a) The employment opportunity available for the student will not interfere with the student's normal progress toward a degree, diploma, or certificate;
 - (b) Contracts to promote increased employment opportunities for eligible students will not result in the displacement of employed workers or impair existing contracts for services; and
 - (c) The work-study payment will not exceed the financial need of the student or the maximum payment as established by the board, whichever is less.

Section 2. KRS 164.769 is amended to read as follows:

- (1) It is the intent of the General Assembly to establish a teacher scholarship program to assist highly qualified individuals to become certified Kentucky teachers and render teaching service in Kentucky schools.
- (2) For purposes of this section, the terms listed below shall have the following meanings:
 - (a) "Critical shortage area" means an understaffing of teachers in particular subject matters at the secondary level, in grade levels, or in geographic locations at the elementary and secondary level, as determined by the commissioner of education in consultation with the authority. The commissioner and the authority may use any source considered reliable including, but not limited to, local education agencies to identify the critical shortage areas.
 - (b) "Eligible program of study" means an undergraduate or graduate program of study which is preparatory to initial teacher certification~~[- but does not lead to a certificate, diploma, or degree in theology, divinity, or religious education].~~
 - (c) "Expected family contribution" means the amount that a student and his family are expected to contribute toward the cost of the student's education determined by applying methodology set forth in 20 U.S.C. sec. 1087 kk to 1087 vv.
 - (d) "Participating institution" means an institution of higher education located in Kentucky which offers an eligible program of study and has in force an agreement with the authority providing for administration of this program.
 - (e) "Qualified teaching service" means teaching the major portion of each school day for at least seventy (70) days each semester in a public school of the Commonwealth or a private school certified pursuant to KRS 156.160(3), except that an individual having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.), whose disability, certified by a licensed physician, prevents that individual from teaching a major portion of each school day, shall be deemed to perform qualified teaching service by teaching the maximum time permitted by the attending physician.
 - (f) "Semester" means a period of about eighteen (18) weeks, which usually makes up one-half (1/2) of a school year or one-half (1/2) of a participating institution's academic year.
 - (g) "Summer term" means an academic period consisting of one (1) or more sessions of instruction between a spring and a fall semester.
- (3) The authority may, to the extent of appropriations and other funds available to it pursuant to subsection (9) of this section, award teacher scholarships to persons eligible under subsection (4) of this section, who initially demonstrate financial need in accordance with standards and criteria established by the authority or received

teacher scholarships pursuant to this section prior to July 1, 1996. Each teacher scholarship shall be evidenced by a promissory note that requires repayment or cancellation pursuant to subsection (6) of this section.

- (4) Kentucky residents who are United States citizens and enrolled or accepted for enrollment in an eligible program of study on a full-time basis at a participating institution shall be eligible to apply for and be awarded teacher scholarships. Teacher scholarships shall first be awarded to highly qualified eligible students who meet standards and requirements established by the Education Professional Standards Board pursuant to KRS 161.028 for admission to a teacher education program at a participating institution or who received teacher scholarships pursuant to this section prior to July 1, 1996. If funds are not depleted after awarding teacher scholarships to students who meet the preceding criteria, then awards shall be made to any otherwise eligible students seeking admission to a teacher education program.
- (5) The authority shall establish, by administrative regulation, the maximum amount of scholarship to be awarded for each semester and summer term under this section, and shall prorate the amount awarded to any student enrolled less than full-time in accordance with paragraph (6)(a) of this section. The aggregate amount of scholarships awarded to an individual shall not exceed twelve thousand five hundred dollars (\$12,500) for undergraduate students and seven thousand five hundred dollars (\$7,500) for postbaccalaureate students, except that the aggregate amount of scholarships awarded to an individual who received teacher scholarships pursuant to this section prior to July 1, 1996, including any amount received pursuant to KRS 156.611, 156.613, 164.768, or 164.770, shall not exceed twenty thousand dollars (\$20,000), and the amount of each scholarship to be awarded shall not exceed the applicant's total cost of education minus other financial assistance received or expected to be received by the applicant during the academic period.
- (6)
 - (a) The authority shall disburse teacher scholarships to eligible students who agree to render qualified teaching service as certified teachers, and are unconditionally admitted and enrolled in an eligible program of study on a full-time basis, except that disbursements may be made to otherwise eligible students enrolled less than full-time in the semester or summer term in which the eligible program of study will be completed or otherwise eligible students having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.), who have been certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability. Teacher scholarships shall be disbursed to eligible students who received teacher scholarships pursuant to this section for recertification in a critical shortage area prior to July 1, 1996, who are enrolled in and continuing toward completion of their program of study, and who agree to render qualified teaching service as certified teachers.
 - (b) A teacher scholarship shall not be awarded or a promissory note cancellation shall not be granted to any person who is in default on any obligation to the authority under any program administered by the authority pursuant to KRS 164.740 to 164.785 until financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.
 - (c) Recipients shall render one (1) semester of qualified teaching service for each semester or summer term of scholarship received, except that recipients who teach in a critical shortage area designated by the authority shall render one (1) semester of qualified teaching service as repayment for two (2) semesters or summer terms of scholarships received. Upon completion of each semester of qualified teacher service, the authority shall cancel the appropriate number of promissory notes.
 - (d) If the recipient of a teacher scholarship fails to complete an eligible program of study at a participating institution or fails to render qualified teaching service in any semester following certification or recertification, unless the failure is temporarily waived for cause by the authority, the recipient shall immediately become liable to the authority for repayment of the sum of all outstanding promissory notes and accrued interest. Persons liable for repayment of scholarships under this paragraph shall be liable for interest accruing from the dates on which the teacher scholarships were disbursed.
 - (e) Recipients who have outstanding loans or scholarships under KRS 156.611, 156.613, 164.768, or 164.770 respectively, and who render qualified teaching service, shall have their notes canceled in accordance with subsection (6)(c) of this section.
 - (f) The authority shall establish, by administrative regulation, the terms and conditions for the award, cancellation, and repayment of teacher scholarships including, but not limited to, the selection criteria, eligibility for renewal awards, amount of scholarship payments, deferments, the rate of repayment, and the interest rate thereon.

- (g) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a promissory note under this section shall be twelve percent (12%) per annum, except that if a judgment is rendered to recover payment, the judgment shall bear interest at the rate of five percent (5%) greater than the rate actually charged on the promissory note.
- (7) A repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of receiving the teacher scholarship.
- (8) Failure to meet repayment obligations imposed by this section shall be cause for the revocation of a person's teaching certificate, subject to the procedures set forth in KRS 161.120.
- (9) All moneys repaid to the authority under this section shall be added to the appropriations made for purposes of this section, and the funds and unobligated appropriations shall not lapse.
- (10) The authority may execute appropriate contracts and promissory notes for administering this section.
- (11) If available funds are insufficient for all requested scholarships for eligible applicants during any fiscal year, the authority shall give priority consideration to eligible applicants who previously received teacher scholarships. If funds are insufficient to make all requested renewal scholarships to eligible applicants, the authority shall reduce all scholarship awards to the extent necessary to provide scholarships to all qualified renewal applicants. If, after awarding all eligible renewal applicants, funds are not depleted, initial applications shall be ranked according to regulatory selection criteria, which may include expected family contribution and application date, and awards shall be made to highly qualified applicants until funds are depleted.

Section 3. KRS 164.785 is amended to read as follows:

- (1) The State of Kentucky shall grant an amount as provided in KRS 164.780 and this section to any applicant who meets the following qualifications:
 - (a) Is a Kentucky resident as defined by the Kentucky Council on Postsecondary Education;
 - (b) Has been accepted by or is enrolled as a full time student in a Kentucky independent college or university which is accredited by the Southern Association of Colleges and Schools and whose institutional programs are not comprised solely of a sectarian instruction. An otherwise eligible student having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.), certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability may also qualify under this paragraph; **and**
 - ~~(c) Is not enrolled in a program of study leading to a degree in theology, divinity, or religious education; and~~
 - ~~(d)~~ Has not previously attended college or university for more than seven (7) semesters or the equivalent.
- (2) The amount of the tuition grant to be paid to a student each semester, or appropriate academic term, shall be determined by the Kentucky Higher Education Assistance Authority.
- (3) The maximum amount shall not exceed fifty percent (50%) of the average state appropriation per full-time equivalent student enrolled in all public institutions of higher education. Such tuition grants are to be calculated annually by the Kentucky Higher Education Assistance Authority.
- (4) The need of each applicant shall be determined by acceptable need analysis such as the parents' confidential statement of the college scholarship service, and such other analyses as the authority may determine, subject to the approval by the United States Secretary of Education.
- (5) An adjustment shall be made in the tuition grant of any student awarded a scholarship from any other source provided the combination of grants and awards exceeds the calculated need of the student.

Section 4. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

- (1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the council;
- (2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;
- (3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or an equivalent score, as determined by the council, on the Scholastic Assessment Test;

- (4) "Authority" means the Kentucky Higher Education Assistance Authority;
- (5) "Award period" means two (2) consecutive academic terms;
- (6) "Base scholarship amount" means that amount earned by an eligible high school student pursuant to KRS 164.7879 in each academic year as determined by the grade point average earned and reported by the high school at the end of the academic year;
- (7) "Council" means the Council on Postsecondary Education created under KRS 164.011;
- (8) "Eligible high school student" means any person who:
 - (a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;
 - (b) Was enrolled after July 1, 1998:
 - 1. In a Kentucky high school, at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the Kentucky educational excellence scholarship curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year;
 - 2. In a Kentucky high school for the fall academic term of the senior year and who:
 - a. Was enrolled during the entire academic term;
 - b. Completed the high school's graduation requirements during the fall academic term; and
 - c. Was not enrolled in a secondary school during any other academic term of that academic year;
 - 3. Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under subparagraph 2. of this paragraph; and
 - (c) Is not a convicted felon;
- (9) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:
 - (a) Earned a Kentucky educational excellence scholarship base, supplemental, or base and supplemental final award;
 - (b) Has the required postsecondary G.P.A. required under KRS 164.7881;
 - (c) Has remaining semesters of eligibility under KRS 164.7881;
 - (d) Is enrolled in a participating institution as a part-time or full-time student; and
 - (e) Is not a convicted felon;
- (10) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;
- (11) "Grade point average" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;
- (12) "High school" means any Kentucky public high school, and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;
- (13) "KEES" means Kentucky educational excellence scholarship;
- (14) "KEES curriculum" means five (5) courses of study in an academic year as determined by administrative regulation promulgated by the council;

- (15) "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;
- (16) "Kentucky educational excellence scholarship trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;
- (17) "Maximum award amount" means the sum of the base scholarship amount earned by an eligible high school student in each academic year of high school study plus any supplemental award earned by an eligible high school student or earned pursuant to KRS 164.7879(3)(c). The amount so determined shall be the maximum amount available to the eligible postsecondary student for any award period;
- (18) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:
 - (a)
 - 1. Is publicly operated; or
 - 2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; or
 - 3. Is designated by the Council on Postsecondary Education as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and
 - (b) Continues to commit financial resources to student financial assistance programs and provides annual documentation to the authority of compliance;
- (19) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and
- (20) "Supplemental award" means commitment of scholarship funds under KRS 164.7879(3).

Section 5. KRS 164A.240 is amended to read as follows:

- (1) As used in this section, the term "eligible borrower" shall mean a student, and the parent of a dependent student, who demonstrates an intention and capacity to repay the loan. The student shall be a Kentucky resident enrolled or accepted for enrollment, on at least a half-time basis, at an eligible institution, making satisfactory progress toward completion of a program leading to a certificate, degree or diploma~~—other than theology, divinity, or religious education—~~.
- (2) In addition to the authority granted by KRS 164A.010 to 164A.230, the corporation is authorized to establish, finance and operate such educational loan programs as the Higher Education Assistance Authority shall deem necessary in order to make available additional educational loans, which shall not be insured student loans as that term is defined by KRS 164A.020 to meet the financial needs of eligible borrowers. The corporation may, in connection with the program, enter into agreements with loan servicing organizations, guarantors, insurers, financial institutions, eligible lenders and eligible institutions. The educational loan programs may provide for either the making of educational loans directly to eligible institutions and the relending to eligible borrowers or the making and purchasing of educational loans by the corporation.
- (3) The corporation may promulgate necessary rules and regulations as shall be required to administer any such program on a financially sound basis, including the requiring of guarantees, cosigning by parents or guardians, nongovernmental loan insurance if available, collateral pledges and other security provisions deemed requisite in the circumstances.
- (4) The corporation may finance the educational loan programs through the issuance of its bonds or notes subject to the provisions set forth in KRS 164A.010 to 164A.230, provided that the proceeds of the bonds may be used for the educational loan programs and shall not be commingled with the proceeds of bonds or notes financing insured student loans as defined by KRS 164A.020. The bonds or notes issued under the provisions of this subsection shall be special and limited obligations, payable solely and only from the receipts pledged and shall not constitute an indebtedness or liability of the Commonwealth or a pledge of the faith and credit of the Commonwealth.

- (5) No bonds or notes may be issued by the corporation for the purpose of financing a nongovernmentally insured education loan pursuant to this section except upon a finding by the Governor and the Legislative Research Commission that the loans are necessary to meet the financial needs of Kentucky residents to obtain a postsecondary education. In making the determination of need the Governor and Legislative Research Commission shall consider the availability of other student assistance resources.
- (6) The maximum annual loan amount shall not exceed the costs incurred by the eligible borrower related to attendance less other financial aid, as certified by the eligible institution, or a lesser amount established by the board. The loan proceeds shall be used by the eligible borrower solely for those costs of attendance.
- (7) The corporation may issue taxable bonds or notes for the financing of any program authorized by this chapter.
- (8) The Higher Education Assistance Authority shall provide the services as the corporation may require to efficiently carry out the purposes of this section.

Approved March 18, 2003

CHAPTER 116

(HB 68)

AN ACT relating to medical licensure, and declaring an emergency.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Any member of the impaired physicians program created under KRS 311.616, as well as any administrator, staff member, consultant, agent, or employee of the program acting within the scope of his or her duties and without actual malice, and all other persons who furnish information to the program in good faith and without actual malice, shall not be liable for any claim or damages as a result of any statement, decision, opinion, investigation, or action taken by the program, or by any individual member of the program.

Section 2. Whereas the impaired physicians program provides critical services to the Board of Medical Licensure and serves to protect the health and safety of the public, and there is an immediate need for the program to receive important information without fear of liability, an emergency is declared to exist and this Act shall take effect upon signature of the Governor or upon its otherwise becoming law.

Approved March 18, 2003

CHAPTER 117

(HB 107)

AN ACT relating to local taxation.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 17 of this Act, unless the context requires otherwise:

- (1) ***"Business entity" means each separate corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;***
- (2) ***"Compensation" means wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows:***
 - (a) ***Include any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction***

- agreement or similar arrangement, including but not limited to salary reduction arrangements under Section 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and*
- (b) *Include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including but not limited to Sections 125 and 132 of the Internal Revenue Code;*
- (3) *"Fiscal year" means fiscal year as defined in Section 7701(a)(24) of the Internal Revenue Code;*
- (4) *"Employee" means employee as defined in Section 3401(c) of the Internal Revenue Code;*
- (5) *"Employer" means employer as defined in Section 3401(d) of the Internal Revenue Code;*
- (6) *"Gross receipts" means all revenues or proceeds derived from sales of goods or services by a business entity with only a deduction allowed for sales and excise taxes and returns and allowances;*
- (7) *"Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2002, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2002, that would otherwise terminate;*
- (8) *"Net profit" in case of a business entity means gross income as defined in Section 61 of the Internal Revenue Code minus all the deductions from gross income allowed by Chapter 1 of the Internal Revenue Code, and adjusted as follows:*
- (a) *Include any amount claimed as a deduction for state tax or local 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, local taxing authority in a state, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision thereof;*
 - (b) *Include any amount claimed as a deduction that directly or indirectly is allocable to income which is either exempt from taxation or otherwise not taxed;*
 - (c) *Include any amount claimed as a net operating loss carryback or carryforward allowed under Section 172 of the Internal Revenue Code;*
 - (d) *Include any amount of income and expenses passed through separately as required by the Internal Revenue Code to an owner of a business entity that is a pass-through entity for federal tax purposes; and*
 - (e) *Exclude any amount of income that is exempt from state taxation by the Kentucky Constitution, or the Constitution and statutory laws of the United States;*
- (9) *"Tax district" means a city of the first to fifth class, county, urban-county, charter county, or consolidated local government;*
- (10) *"Taxable gross receipts" in case of a business entity having payroll both within and without a tax district means gross receipts as defined in subsection (6) of this section, and as apportioned under Section 2 of this Act;*
- (11) *"Taxable gross receipts" in case of a business entity having payroll only in one (1) tax district means gross receipts as defined in subsection (6) of this section;*
- (12) *"Taxable net profit" in case of a business entity having payroll only in one (1) tax district means net profit as defined in subsection (8) of this section;*
- (13) *"Taxable net profit" in case of a business entity having payroll both within and without a tax district means net profit as defined in subsection (8) of this section, and as apportioned under Section 2 of this Act; and*
- (14) *"Taxable year" means the calendar year or fiscal year ending during the calendar year, upon the basis of which net income or gross receipts is computed.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as provided for in subsection (2) of this section, net profit or gross receipts shall be apportioned to the tax district by multiplying the net profit or gross receipts by a fraction, the numerator of which is the payroll factor plus the sales factor, and the denominator of which is two (2).*

- (a) *The payroll factor is a fraction, the numerator of which is the total amount paid or payable in the tax district during the tax period by the business entity for compensation, and the denominator of which is the total compensation paid or payable by the business entity everywhere during the tax period. Compensation is paid or payable in the tax district based on the time the individual's service is performed within the tax district.*
- (b)
 - 1. *The sales factor is a fraction, the numerator of which is the total sales of the business entity in the tax district during the tax period, and the denominator of which is the total sales of the business entity everywhere during the tax period.*
 - 2. *Sales of tangible personal property are in the tax district if:*
 - a. *The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within the tax district regardless of the f.o.b. point or other conditions of the sale; or*
 - b. *The property is shipped from an office, store, warehouse, factory, or other place of storage in the tax district and the purchaser is the United States government.*
 - 3. *Sales, other than sales of tangible personal property, are apportioned to the tax district based upon a fraction, the numerator of which is the time spent in performing such income-producing activity within the tax district and the denominator of which is the total time spent performing that income-producing activity.*
- (2) *If the apportionment provisions of this section do not fairly represent the extent of the business entity's activity in the tax district, the business entity may petition the tax district or the tax district may require, in respect to all or any part of the business entity's business activity, if reasonable:*
 - (a) *Separate accounting;*
 - (b) *The exclusion of any one (1) or more of the factors;*
 - (c) *The inclusion of one (1) or more additional factors which will fairly represent the business entity's business activity in the tax district; or*
 - (d) *The employment of any other method to effectuate an equitable allocation and apportionment of net profit or gross receipts.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *Every business entity, other than a sole proprietorship, subject to taxation under KRS 92.281 or Section 18, 19, or 20 of this Act, shall make quarterly estimated tax payments on or before the fifteenth day of the fourth, sixth, ninth, and twelfth month of each taxable year if the tax liability for the taxable year exceeds five thousand dollars (\$5,000).*
- (2) *The quarterly estimated tax payments required under subsection (1) of this section shall be based on the lesser of:*
 - (a) *Twenty-two and one-half percent (22.5%) of the current taxable year tax liability;*
 - (b) *Twenty-five percent (25%) of the preceding full year taxable year tax liability; or*
 - (c) *Twenty-five percent (25%) of the average tax liability for the three (3) preceding full year taxable years' tax liabilities if the tax liability for any of the three (3) preceding full taxable years exceeded twenty thousand dollars (\$20,000).*
- (3) *Any business entity that fails to submit the minimum quarterly payment required under subsection (2) of this section by the due date for the quarterly payment shall pay an amount equal to twelve percent (12%) per annum simple interest on the amount of quarterly payment required under subsection (2) of this section from the earlier of:*
 - (a) *The due date for the quarterly payment until the time when the aggregate quarterly payments submitted for the taxable year equal the minimum aggregate payments due under subsection (2) of this section; or*
 - (b) *The due date of the annual return.*

A fraction of a month is counted as an entire month.

- (4) *The provisions of this section shall not apply to any business entity's first full or partial taxable year of doing business in the tax district or any first taxable year in which a business entity's tax liability exceeds five thousand dollars (\$5,000).*
- (5) *The provisions of this section shall not apply unless adopted by the tax district.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *In the case where the tax computed under Sections 1 to 17 of this Act is less than the amount which has been declared and paid as estimated tax for the same taxable year, a refund shall be made upon the filing of a return.*
- (2)
 - (a) *Overpayment resulting from the payment of estimated tax in excess of the amount determined to be due upon the filing of a return for the same taxable year may be credited against the amount of estimated tax determined to be due on any declaration filed for the next succeeding taxable year or for any deficiency or nonpayment of tax for any previous taxable year;*
 - (b) *No refund shall be made of any estimated tax paid unless a complete return is filed as required by Sections 1 to 17 of this Act.*
- (3) *At the election of the business entity, any installment of the estimated tax may be paid prior to the date prescribed for its payment.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *As specified by Sections 1 to 17 of this Act and its application, the federal income tax law and its application, and the administrative and judicial interpretations of the federal income tax law, for purposes of Sections 1 to 17 of this Act computations of gross income and deductions therefrom, gross receipts or sales, and deductions therefrom, accounting methods, and accounting procedures shall be as nearly as practicable identical with those required for federal income tax purposes.*
- (2) *Every business entity subject to an occupational license tax governed by the provisions of Sections 1 to 17 of this Act shall keep records, render under oath statements, make returns, and comply with rules as the tax district from time to time may prescribe. Whenever the tax district judges it necessary, it may require a business entity, by notice served to the business entity, to make a return, render under oath statements, or keep records, as the tax district deems sufficient to show whether or not the business entity is liable for tax, and the extent of the liability.*
- (3) *The tax district, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any business entity, may require the attendance of a representative of the business entity or of any other person having knowledge in the premises.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

If any business entity dissolves or withdraws from a tax district during any taxable year, or if any business entity in any manner surrenders or loses its charter during any taxable year, the dissolution, withdrawal, or loss or surrender of charter shall not defeat the filing of returns and the assessment and collection of net profit or gross receipts taxes or tax withheld for the period of that taxable year during which the business entity had net profit or gross receipts or tax withheld in the tax district.

SECTION 7. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

If a business entity makes, or is required to make, a federal income tax return, the net profit or gross receipts shall be computed for the purposes of Sections 1 to 17 of this Act on the basis of the same calendar or fiscal year required by the federal government, and shall employ the same methods of accounting required for federal income tax purposes.

SECTION 8. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *All business entities' returns for the preceding taxable year shall be made by April 15 in each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns shall be supplied by the tax district.*
- (2) *Every business entity shall submit a copy of its federal income tax return at the time of filing its return with the tax district. Whenever, in the opinion of the tax district, it is necessary to examine the federal income*

tax return of any business entity in order to audit the return, the tax district may compel the business entity to produce for inspection a copy of all statements and schedules in support thereof. The tax district may also require copies of reports of adjustments made by the federal government.

SECTION 9. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *A tax district may grant any business entity an extension of not more than six (6) months, unless a longer extension has been granted by the Internal Revenue Service, for filing its return, if the business entity, on or before the date prescribed for payment of the tax, requests the extension and pays the amount properly estimated as its tax.*
- (2) *If the time for filing a return is extended, the business entity shall pay, as part of the tax, an amount equal to twelve percent (12%) per annum simple interest on the tax shown due on the return, but not previously paid, from the time the tax was due until the return is actually filed and the tax paid to the tax district. A fraction of a month is counted as an entire month.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section and Section 12 of this Act, unless the context requires otherwise:*
 - (a) *"Conclusion of the federal audit" means the date that the adjustments made by the Internal Revenue Service to net income or gross receipts as reported on the business entity's federal income tax return become final and unappealable; and*
 - (b) *"Final determination of the federal audit" means the revenue agent's report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service.*
- (2) *As soon as practicable after each return is received, the tax district may examine and audit it. If the amount of tax computed by the tax district is greater than the amount returned by the business entity, the additional tax shall be assessed and a notice of assessment mailed to the business entity by the tax district within five (5) years from the date the return was filed, except as otherwise provided in this subsection.*
 - (a) *In the case of a failure to file a return or of a fraudulent return the additional tax may be assessed at any time.*
 - (b) *In the case of a return where a business entity understates net profit or gross receipts, or omits an amount properly includable in net profit or gross receipts, or both, which understatement or omission or both is in excess of twenty-five percent (25%) of the amount of net profit or gross receipts stated in the return, the additional tax may be assessed at any time within six (6) years after the return was filed.*
 - (c) *In the case of an assessment of additional tax relating directly to adjustments resulting from a final determination of a federal audit, the additional tax may be assessed before the expiration of the times provided in this subsection, or six (6) months from the date the tax district receives the final determination of the federal audit from the business entity, whichever is later.*

The times provided in this subsection may be extended by agreement between the business entity and the tax district. For the purposes of this subsection, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day. Any extension granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

- (3) *Every business entity shall submit a copy of the final determination of the federal audit within thirty (30) days of the conclusion of the federal audit.*
- (4) *A tax district may initiate a civil action for the collection of any additional tax within the times prescribed in subsection (2) of this section.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *The full amount of the unpaid tax payable by any business entity, as appears from the face of the return, shall be paid to the tax district at the time prescribed for filing the tax return, determined without regard to any extension of time for filing the return.*
- (2) *A tax district may impose minimum and maximum tax liabilities for the tax on net profits or gross receipts.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by Sections 1 to 17 of this Act.*
- (2) *Any tax collected pursuant to the provisions of Sections 1 to 17 of this Act may be refunded or credited within two (2) years of the date prescribed by law for the filing of a return or the date the money was paid to the tax district, whichever is the later, except that:*
 - (a) *In any case where the assessment period contained in Section 10 of this Act has been extended by an agreement between the business entity and the tax district, the limitation contained in this subsection shall be extended accordingly.*
 - (b) *If the claim for refund or credit relates directly to adjustments resulting from a federal audit, the business entity shall file a claim for refund or credit within the time provided for in this subsection or six (6) months from the conclusion of the federal audit, whichever is later.*

For the purposes of this subsection and subsection (3) of this section, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.

- (3) *Exclusive authority to refund or credit overpayments of taxes collected pursuant to KRS 67.083 and 92.281 and Sections 18, 19, and 20 of this Act is vested in the tax district.*

SECTION 13. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Every employer making payment of compensation shall deduct and withhold upon the compensation a tax determined under KRS 92.281, 67.083, or Section 18, 19, or 20 of this Act and pay in accordance with Section 14 of this Act. A tax district may impose minimum and maximum tax liabilities for the tax on compensation.

SECTION 14. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *Every employer required to deduct and withhold tax under Section 13 of this Act shall, for the quarter ending after January 1 and for each quarter ending thereafter, on or before the end of the month following the close of each quarter make a return and report to the tax district the tax required to be withheld under Section 13 of this Act, unless the employer is permitted or required to report within a reasonable time after some other period as determined by the tax district.*
- (2) *Every employer who fails to withhold or pay to the tax district any sums required by Sections 1 to 17 of this Act to be withheld and paid shall be personally and individually liable to the tax district for any sum or sums withheld or required to be withheld in accordance with the provisions of Section 13 of this Act.*
- (3) *The tax district shall have a lien upon all the property of any employer who fails to withhold or pay over to the tax district sums required to be withheld under Section 13 of this Act. If the employer withholds but fails to pay the amounts withheld to the tax district, the lien shall commence as of the date the amounts withheld were required to be paid to the tax district. If the employer fails to withhold, the lien shall commence at the time the liability of the employer is assessed by the tax district.*
- (4) *Every employer required to deduct and withhold tax under Section 13 of this Act shall annually on or before February 28 of each year complete and file on a form furnished or approved by the tax district a reconciliation of the tax withheld in each tax district where compensation is paid or payable to employees. Either copies of federal forms W-2 and W-3, transmittal of wage and tax statements, or a detailed employee listing with the required equivalent information as determined by the tax district shall be submitted.*
- (5) *Every employer shall furnish each employee a statement on or before January 31 of each year showing the amount of compensation and license tax deducted by the employer from the compensation paid to the employee for payment to a tax district during the preceding calendar year.*

SECTION 15. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *An employer shall be liable for the payment of the tax required to be deducted and withheld under Section 13 of this Act.*
- (2) *The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any business entity subject to Section 13 of this Act shall be personally and individually liable, both jointly and severally, for any tax required to be withheld under Sections 1 to 17 of this Act from compensation paid to one or more employees of any business entity, and neither the corporate dissolution or withdrawal of the business entity from the tax district nor the cessation of holding any corporate office shall discharge that liability of any person; provided that the personal and individual liability shall apply to*

each or every person holding the corporate office at the time the tax becomes or became obligated. No person shall be personally and individually liable under this subsection who had no authority to collect, truthfully account for, or pay over any tax imposed by Sections 1 to 17 of this Act at the time that the taxes imposed by Sections 1 to 17 of this Act become or became due.

- (3) *Every employee receiving compensation in a tax district subject to the tax imposed under KRS 92.281 or Section 18, 19, or 20 of this Act shall be liable for the tax notwithstanding the provisions of subsections (1) and (2) of this section.*

SECTION 16. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *Where there has been an overpayment of tax under Section 13 of this Act, refund or credit shall be made to the employer only to the extent that the amount of the overpayment was not deducted and withheld under Section 13 of this Act by the employer.*
- (2) *Unless written application for refund or credit is received by the tax district from the employer within two (2) years from the date the overpayment was made, no refund or credit shall be allowed.*
- (3) *An employee who has compensation attributable to activities outside a tax district, based on time spent outside the tax district, but whose employer has withheld and remitted the occupational license fee on the compensation to another tax district, may file for a refund within two (2) years of the date prescribed by law for the filing of a return. The employee shall provide a schedule and computation sufficient to verify the refund claim and the tax district may confirm with the employer the percentage of time spent and the amount of compensation for activities outside the tax district prior to approval of the refund.*

SECTION 17. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *A business entity subject to tax on gross receipts or net profits shall pay a penalty equal to five percent (5%) of the tax due for each calendar month or fraction thereof if the business entity:*
 - (a) *Files any return or report after the due date prescribed for filing or the due date as extended by the tax district, unless it is shown to the satisfaction of tax district that the failure to file is due to reasonable cause; or*
 - (b) *Fails to pay the tax computed on the return or report on or before the due date prescribed for filing.*

The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars (\$25).
- (2) *Every employer who fails to file a return or pay the tax on or before the time prescribed under Section 14 of this Act shall pay a penalty in amount equal to five percent (5%) of the tax due for each calendar month or fraction thereof. The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars (\$25).*
- (3) *In addition to the penalties prescribed in this section, any business entity or employer shall pay, as part of the tax, an amount equal to twelve percent (12%) per annum simple interest on the tax shown due, but not previously paid, from the time the tax was due until the tax is paid to the tax district. A fraction of a month is counted as an entire month.*
- (4) *Every tax imposed by Sections 1 to 17 of this Act, and all increases, interest, and penalties thereon, shall become, from the time it is due and payable, a personal debt to the tax district from the business entity or other person liable therefor.*
- (5) *In addition to the penalties prescribed in this section, any business entity or employer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class A misdemeanor.*
- (6) *Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under Sections 1 to 17 of this Act of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, shall be guilty of a Class A misdemeanor.*

- (7) *A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by the tax district and required to be filed with the tax district by the provisions of Sections 1 to 17 of this Act, or by the rules of the tax district or by written request for information to the business entity by the tax district.*
- (8) *No present or former employee of any tax district shall intentionally and without authorization inspect or divulge any information acquired by him or her of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the tax district or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns for taxation, or any other infraction of the tax laws, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or the taxpayer's properly authorized agent with information respecting his or her own return. Further, this prohibition does not preclude any employee of the tax district from testifying in any court, or from introducing as evidence returns or reports filed with the tax district, in an action for violation of a tax district tax laws or in any action challenging a tax district tax laws.*

Section 18. KRS 68.180 is amended to read as follows:

- (1) The fiscal court of each county having a population of three hundred thousand (300,000) or more may by order or resolution impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing.
- (2) License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, shall be imposed at a percentage rate ~~or rates~~ not to exceed one and one-fourth percent (1.25%) of:
- (a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county; ~~and~~
 - (b) The net profits of businesses, trades, professions, or occupations from activities conducted in the county.
- (3) *The provisions of subsection (2) of this section shall not apply to* license fees imposed for regulatory purposes ~~shall not be subject to such limitations~~ as to form and amount. No public service company that pays an ad valorem tax shall be required to pay a license tax, and no license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company, combined trust, banking and title business in this state, any savings and loan association, whether state or federally chartered, or upon income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training, or upon income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections, or upon any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor, or in other cases where the county is prohibited by law from imposing a license tax.
- ~~(4)(2)~~ The provisions and limitations of subsection (2) of this section ~~(4)~~ shall not apply to the license fees authorized by KRS 160.482 to 160.488.

Section 19. KRS 68.197 is amended to read as follows:

- (1) The fiscal court of each county having a population of thirty thousand (30,000) or more may by ordinance impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing.
- (2) License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, may be imposed at a percentage rate not to exceed one percent (1%) of:
- (a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county;
 - (b) The net profits of self-employed individuals, partnerships, professional associations, or joint ventures resulting from trades, professions, occupations, businesses, or activities conducted in the county; and
 - (c) The net profits of corporations resulting from trades, professions, occupations, businesses, or activities conducted in the county.

- (3) In order to reduce administrative costs and minimize paperwork for employers, employees, and businesses, the fiscal court may provide:
- (a)~~{1-}~~ For an annual fixed amount license fee which a person may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on salaries, wages, commissions, and other compensation earned within the county for work done and services performed or rendered in the county; and
 - (b)~~{2-}~~ For an annual fixed amount license fee which an individual, partnership, professional association, joint venture, or corporation may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on net profits of businesses, trades, professions, or occupations from activities conducted in the county.
- (4) Licenses imposed for regulatory purposes are not subject to such limitations as to form and amount. No public service company that pays an ad valorem tax is required to pay a license tax, and no license tax shall be imposed upon or collected from any insurance company except as provided in KRS 91A.080, bank, trust company, combined bank and trust company, combined trust, banking, and title business in this state, or any savings and loan association whether state or federally chartered, or in other cases where the county is prohibited by law from imposing a license ~~fee~~~~tax~~.
- (5)~~{2-}~~ No license fee shall be imposed or collected on income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training, or on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections, or upon any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor.
- (6)~~{3-}~~ Persons who pay a county license fee pursuant to this section and who also pay a license fee to a city contained in the county may, upon agreement between the county and the city, credit their city license fee against their county license fee.
- (7)~~{4-}~~ The provisions of subsection (6)~~{3-}~~ of this section notwithstanding, effective with license fees imposed under the provisions of subsection (1) of this section on or after July 15, 1986, persons who pay a county license fee and a license fee to a city contained in the county shall be allowed to credit their city license fee against their county license fee.
- (8)~~{5-}~~ On July 14, 2000, the provisions of subsection (7)~~{4-}~~ of this section notwithstanding, city license fees not credited against county license fees enacted under this section or KRS 67.083 as of January 1, 2000, shall not be credited against county license fees. However, this exception shall not apply to county license fees enacted for the first time, or increased, on or after January 1, 2000. This provision shall expire July 15, 2002, unless otherwise extended by the General Assembly.
- (9)~~{6-}~~ A county that enacted an occupational license fee under the authority of KRS 67.083 shall not be required to reduce its occupational tax rate when it is determined that the population of the county exceeds thirty thousand (30,000).

Section 20. KRS 91.200 is amended to read as follows:

- (1) The board of aldermen of every city of the first class, in addition to levying ad valorem taxes, may by ordinance impose license fees on franchises, provide for licensing any business, trade, occupation, or profession and the using, holding, or exhibiting of any animal, article, or other thing.
- (2) License fees on a business, trade, occupation, or profession for revenue purposes may be imposed at a percentage rate not to exceed those hereinafter set forth on:
 - (a) Salaries, wages, commissions and other compensations earned by every person within the city for work done and services performed or rendered in the city (all of such being hereinafter collectively referred to as "wages");~~{-}~~ and
 - (b) The net profits of all businesses, professions, or occupations from activities conducted in the city (hereinafter collectively referred to as "net profits").

- (3) Licenses imposed for regulatory purposes shall not be subject to such limitations as to form and amount. No company that pays an ad valorem tax and a franchise tax is required to pay a license tax and no license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company or combined trust, banking and title business in this state, any savings and loan association whether state or federally chartered, or upon income received by members of the Kentucky national guard for active duty training, unit training assemblies, and annual field training, or on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections, or upon any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor, or in any other case where the city is prohibited by statute from imposing a license tax.
- ~~(4)(2)~~ The rate fixed on both "wages" and "net profits" shall be one and one-fourth percent (1.25%).
- ~~(5)(3)~~ License fees or taxes shall be collected by the commissioners of the sinking fund. The proceeds from the taxes shall be paid to the secretary and treasurer of the sinking fund until income from all sources of the sinking fund is sufficient to pay the cost of administration and the interest charges for the current fiscal year of the sinking fund in addition to a sum sufficient to amortize the outstanding principal indebtedness of the city on a yearly basis in accordance with regularly used amortization tables.
- ~~(6)(4)~~ Revenue remaining after meeting the foregoing requirements shall be transferred to the city. Such revenues shall be credited to the general fund of the city as received and may be expended for general purposes or for capital improvements.
- ~~(7)(5)~~ The term "capital improvements" as used in this section is limited to additions or improvements of a substantial and permanent nature and services rendered in connection therewith, and includes but is not limited to:
- (a) The purchase of rights of way for highways, expressways, and the widening of existing streets;
 - (b) The purchase of lands for park, recreational, and other governmental facilities and for public off-street parking facilities;
 - (c) The purchase, construction, reconstruction, renovation, or remodeling of municipal buildings, and facilities;
 - (d) The replacement of machinery, wires, pipes, structural members or fixtures, and other essential portions of municipal buildings;
 - (e) The initial equipment of any newly acquired facility wherein any essential governmental function of the municipality may be located or carried on;
 - (f) The purchase and installation of traffic control devices and fire alarm equipment;
 - (g) The reconstruction and resurfacing, but not routine maintenance, of streets and other public ways;
 - (h) The acquisition of motorized equipment purchased as additions to, but not replacements for, existing equipment; and
 - (i) Engineering and other costs incurred by the city in connection with the construction of public improvements financed under a special assessment plan.
- ~~(8)(6)~~ Ad valorem taxes for the benefit of the sinking fund shall not be levied unless the income of the sinking fund is otherwise insufficient to meet such requirements.
- ~~(9)(7)~~ Licenses shall be issued and enforced on terms and conditions as prescribed by ordinance.

Section 21. KRS 68.190 is amended to read as follows:

Any amount paid to any city of the first class within such county as a license fee, for the same privilege and for the same period, shall be credited against the county license fee payable under ~~subsections~~~~(subsection)~~ (1) **and 2** of KRS 68.180. Any amount paid to any other city within such county as a license fee, for the same privilege and for the same period, shall be credited against the county license fee payable under ~~subsections~~~~(subsection)~~ (1) **and 2** of KRS 68.180, provided that such city, at least thirty (30) days prior to the beginning of any county fiscal year, has contracted with the fiscal court to contribute annually to the support of joint agencies of such county and one or more cities in the county, an amount which bears the same ratio to the annual appropriation made for such joint agencies by a city of the first class in the county, as the assessed valuations for county tax purposes, as determined by the property

valuation administrator, of the real and tangible personal property, excluding franchises, located within the corporate limits of such other cities, respectively, bears to the same assessed valuations within a city of the first class in said county.

Section 22. KRS 68.199 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS 68.197(7)~~[(4)]~~, a county that enacts an occupational license fee under the authority of KRS 67.083 prior to attaining a population of thirty thousand (30,000) shall not be required to allow a credit against the county occupational license fee for an occupational license fee paid to a city within the county when it is determined that the population of the county exceeds thirty thousand (30,000).
- (2) If prior to July 15, 2002, a county voluntarily granted a credit against the county occupational license fee under the terms of an ordinance, interlocal agreement, or other agreement with a city, the county shall not eliminate the credit after it is determined that the population of the county exceeds thirty thousand (30,000).
- (3) After July 15, 2002, a county that enacts a new county occupational license fee or increases a county occupational license fee, after it is determined that the county population exceeds thirty thousand (30,000), shall be required to allow the credit against the city fee required by KRS 68.197(7)~~[(4)]~~ to the extent of the increase or new fee.
- (4) For purposes of this section, the county population shall be determined based only on the official decennial census by the United States Bureau of the Census.

SECTION 23. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the maximum tax rates in Section 18, 19, and 20 of this Act, a tax district which levies a tax on net profits may levy a tax rate that would generate approximately the same amount of revenues as the prior year plus normal revenue growth experienced by the tax district over the prior five (5) years. A tax district may invoke the provisions of this section only once.

SECTION 24. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 17 of this Act shall apply on and after January 1, 2006, to all tax districts that levy an occupational license fee or a tax on net profits or gross receipts imposed under Sections 18, 19, and 20 of this Act and KRS 67.083 and 92.281, or any other statutory provision. However, a tax district may apply the provisions of Sections 1 to 17 of this Act to the levy of an occupational license fee or a tax on net profits or gross receipts imposed under Sections 18, 19, and 20 of this Act and KRS 67.083 and 92.281 or any other statutory provision by adoption of an ordinance prior to January 1, 2006.

Approved March 18, 2003

CHAPTER 118

(HB 109)

AN ACT relating to police merit boards in a consolidated local government and declaring an emergency.

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

Section 1. KRS 67C.301 is amended to read as follows:

As used in KRS 67C.301 to 67C.327, unless the context otherwise requires:

- (1) "Board" means the consolidated local government police force merit board or boards hereinafter created.
- (2) "Chief" means a chief of a consolidated local government police force affected by KRS 67C.301 to 67C.327.
- (3) "Assistant chief" means the next in command to the chiefs of the consolidated local government police force or forces affected by KRS 67C.301 to 67C.327.
- (4) "Secretary" means the executive secretary~~[-and examiner]~~ employed by the consolidated local government police force merit board or boards created as provided by KRS 67C.301 to 67C.327.
- (5) "Officer" means any member of the consolidated local government police forces affected by KRS 67C.301 to 67C.327, including **police**~~[-chiefs, assistant chiefs, and patrol]~~ officers, corporals, sergeants, lieutenants, and captains~~[-unless specifically excluded]~~.

Section 2. KRS 67C.305 is amended to read as follows:

- (1) The mayor, subject to the approval of the legislative council of the consolidated local government, shall appoint **five (5)**~~four (4)~~ persons, who shall constitute the consolidated local government police force merit board of the consolidated local government. The members of the board shall serve without compensation. Each board appointee shall be at least thirty (30) years of age, a resident of the consolidated local government, and not related by either blood or marriage to either the mayor or any member of the legislative council of the consolidated local government. The first members of the board shall be appointed within thirty (30) days of the effective date of the ordinance creating a consolidated local government police force merit system and merit board. One (1) member of the board shall be appointed for a term of one (1) year, one (1) for a term of two (2) years, **two (2)**~~one (1)~~ for a term of three (3) years, and one (1) for a term of four (4) years. Thereafter, all appointments shall be for four (4) years except that an appointment to fill a vacancy on the board shall be made only for the unexpired term of the vacated position. Any board member may be removed by resolution of the legislative council of the consolidated local government for neglect, incapacity, misfeasance, or malfeasance on the part of a board member. No appointed board member shall hold any other public office, elective or appointive, during his or her term as a member of the board, and shall not receive any money, gift, or consideration of any type from any person, directly or indirectly, for or on account of any recommendation, proposal, or suggestion bearing upon the business of the board or the consolidated local government police force. Not more than **three (3)**~~two (2)~~ members shall be members of the same political party.
- (2) Each appointee, before entering upon the discharge of his or her duties, shall qualify by subscribing, taking, and filling an oath of office as required by law.
- (3) The ~~officers~~~~members~~ of the consolidated local government police forces shall elect, for a two (2) year term, two (2) **police**~~patrol~~ officers of the consolidated police forces with a minimum of five (5) or more years' service who shall serve as members of the board for the purpose of deciding discipline cases only, and who may vote in these cases. In case of a vacancy in a position held by a **police**~~patrol~~ officer, a new election shall be held within sixty (60) days of the date the vacancy occurs and the person elected shall fill the remainder of the original unexpired term.

Section 3. KRS 67C.307 is amended to read as follows:

- (1) The board shall meet within thirty (30) days of the creation of the board and the members shall select from among themselves a chairman and vice chairman and adopt such rules, regulations, and bylaws not inconsistent with KRS 67C.301 to 67C.327 for the necessary operation of the board. In all **nondisciplinary** matters requiring a vote, a majority of the board members present and voting shall determine any questions, provided that at least three (3) board members are present to constitute a quorum.
- (2) In cases of discipline, four (4) members of the board shall be present to constitute a quorum, one (1) of which shall be a police officer as defined in KRS 67C.305(3).

Section 4. KRS 67C.309 is amended to read as follows:

- (1) The board shall meet at least once every two (2) calendar months and minutes of each meeting shall be kept.
- (2) The board, **with the approval of the mayor**, shall employ a secretary who shall also conduct~~all~~ examinations, prepare eligible lists, keep all records of the board's business, keep and maintain all minutes of all board meetings, and perform such other duties in connection with the business of the board as may be required. The secretary may be employed on either a part-time or full-time basis, and the secretary shall receive compensation as may be recommended by the board and approved by the legislative council. All orders and minutes of the board shall be signed by the chairman who shall be elected by the board members, and the minutes shall be countersigned by the secretary.
- (3) All records and meetings of the board shall comply with KRS 61.805 to 61.884.

Section 5. KRS 67C.313 is amended to read as follows:

- (1) All police officers of whatever rank and title of a consolidated local government police force shall be covered by the provisions of this section, except probationary officers. All officers of a consolidated local government police force on active duty or service as of the effective date of an ordinance creating a consolidated local government police merit system and board, shall be deemed fit and qualified to continue their respective duties of employment on or for the consolidated local government police force without examination or further qualification~~, except and unless the chief of police shall, within sixty (60) days after the establishment of the board, certify to the board that any officer is physically unfit to continue his or her duties].~~

- (2) All personnel covered by the provisions of this section, except probationary officers, shall be deemed to be permanent employees subject to their ability to satisfactorily perform their respective duties and *further* subject to their good behavior.
- (3) A probationary officer shall not be included in the merit system until that officer has satisfactorily completed his or her initial probationary period which shall be one (1) year from his or her sworn date. The one (1) year probationary period may be extended for up to six (6) months upon showing of just cause by the chief and approved by the board.
- (4) Officers covered by the provisions of KRS 67C.303 and serving promotional probationary periods shall not be deemed excluded from the merit system during the promotional probationary periods.

Section 6. KRS 67C.315 is amended to read as follows:

- (1) The provisions of KRS 67C.303, 67C.305, 67C.307, 67C.309, and 67C.319 shall not apply to the chief of police, assistant chief, and any officers above the rank of captain of the consolidated local government police force. These officers shall be appointed by the mayor and shall not be considered covered under the employment protections of the merit board, except as provided in subsection (2) of this section.
- (2) Any officer originally covered by the provisions of KRS 67C.303, 67C.305, 67C.307, and 67C.309 who shall accept an appointment and qualify as chief of police, assistant chief of police, or officer above the rank of captain shall be deemed to have received a leave of absence from the classified service for and during his or her service in either of these respective positions. Should any chief of police, assistant chief of police, or officer above the rank of captain cease to serve in that capacity, he or she shall be restored to the same classification and rank which he or she held prior to the appointment *without loss of seniority in grade*. Any person not covered by the provisions of KRS 67C.303, 67C.305, 67C.307, and 67C.309 when appointed to the position of chief of police, assistant chief of police, or officer above the rank of captain shall not be deemed to be part of the classified service and shall not be placed in any classification or rank in the classified service when he or she ceases to serve in that position unless he or she goes through the normal qualification and classification procedures required by the board.

Section 7. KRS 67C.317 is amended to read as follows:

- (1) No officer *while on duty or in uniform* covered by the provisions of KRS 67C.301 to 67C.327 shall directly or indirectly solicit or receive or be in any manner concerned in receiving, soliciting, or publicizing any assessment, gift, subscription, or contribution to or for any political party or candidate for public office.
- (2) No person shall use or promise to use his or her personal influence or official authority to secure any appointment or promotion to any position of employment covered by the provisions of KRS 67C.301 to 67C.327, as a reward or return for personal or partisan political service. No candidate applying for original appointment or promotion to any position of employment covered by KRS 67C.301 to 67C.327 shall sign or execute or promise to sign or execute a resignation dated or undated in advance of his or her appointment or promotion. No officer covered by the provisions of KRS 67C.301 to 67C.327 shall be suspended, laid off, demoted, promoted, ~~fined,~~ disciplined, or threatened, or in any way changed in rank, duty, or compensation for withholding or neglecting to pay or make any contribution of any sort, either in money, goods, services, or anything of value for any political purpose whatsoever.
- (3) No examination question on any examination given by the board shall relate to any political or religious opinion, belief, affiliation, or service and no appointment, promotion, demotion, suspension, ~~fine,~~ or removal shall be brought about, ~~effected,~~ affected, or influenced by these opinions, beliefs, affiliations, or services.
- (4) No officer covered by the provisions of KRS 67C.301 to 67C.327 shall foster, promote, or be concerned with any actions involving political or religious controversies or prejudices while in uniform.
- (5) Nothing contained in KRS 67C.301 to 67C.327 shall be so construed as to abridge the rights of any officer with respect to his or her personal opinions, beliefs, and right to vote.

Section 8. KRS 67C.319 is amended to read as follows:

- (1) Every consolidated local government police force merit system board created shall make, promulgate, and when necessary, amend rules for the qualifications, original appointment, probation, promotion, demotion, transfer, lay-off, reinstatement, suspension, and removal of the officers covered by KRS 67C.303, 67C.305, 67C.307, and 67C.309. No rule or regulation made, promulgated, or amended by any consolidated local

government police force merit system board shall be inconsistent with the express provisions of this chapter. The board shall publish its rules and any amendments and shall supply certified copies to the mayor, legislative council, and the police chief and shall post a copy conspicuously in the office or place where the headquarters of the consolidated local government police is maintained. The copies of the rules and amendments shall be distributed and posted in the manner prescribed within three (3) days after adoption.

- (2) The rules in addition to other matters shall specifically provide for and cover the following:
 - (a) Physical, mental, educational, citizenship, and age requirements for new officers;
 - (b) Physical, mental, educational, citizenship, age, and length of service requirements for promotion from lower to higher rank or classification;
 - (c) A requirement that **police**~~patrol~~ officers have five (5) years of service as **police**~~patrol~~ officers before being eligible for promotion to the rank of sergeant;
 - (d) Provision for open, competitive, written, oral, **and other mental** and physical examinations to determine the relative fitness of all candidates for original appointment and for promotion;
 - (e) A requirement of public notice of all examinations to be given by the merit board;
 - (f) Organization and meetings of the board; and
 - (g) Procedure and conduct of public hearings.
- (3) The board, **with the approval of the mayor**, shall employ a chief examiner who shall be professionally qualified and experienced in the field of testing and who shall formulate, give, grade, and administer all written **or other examinations**~~tests~~ as required by the board.~~[The chief examiner shall report to the board the results of all tests given by him or her and the examiners shall be solely responsible to the board. The chief examiner shall compile the grades of all applicants in strict compliance with procedures and percentages as set out in this section and shall deliver the scores of all applicants for promotion to the chairman of the board, in a sealed envelope. The chief examiner shall not reveal to anyone the results of test scores for promotions other than in this manner.]~~
- (4) Physical fitness for promotion shall be presumed unless certified to the contrary by the chief of police who shall supply the board with medical records of the disability.
- (5) At least ninety (90) days' notice shall be given before a promotional examination is conducted.
- (6) Promotional tests shall be graded, as determined by the board, to include~~both~~ written,~~and~~ oral, **and other** examination scores. In addition, seniority in grade, not to exceed ten percent (10%), shall be awarded for each year of service after five (5) full years of service. The results of the written,~~and~~ oral **and other** examinations shall be combined **with seniority** to determine the applicant's final evaluated rating.
- (7) Promotional eligibility lists shall contain the names of successful candidates in the order of their standing through examination. **An individual's results and ratings are subject to review by the individual candidate but are otherwise confidential.**
- (8) **The chief examiner shall compile the results of all examinations. Upon completion of grading of examinations, candidates shall be informed by mail of the final evaluated rating attained and their individual ranking on the eligibility list. An applicant may, by appointment, discuss his or her examination results within the offices of the chief examiner during business hours at any time when such review will not interfere with the work of the board. Such review must be requested within ten (10) calendar days following the establishment of the eligibility list.**~~[An applicant may file with the board a written challenge to the applicant's score on the written or oral examination within ten (10) days of notification of examination scores.]~~ The board shall make examination questions and answers available for inspection by the applicant upon the filing of a written challenge.
- (9) In filling promotional vacancies, the chief of police shall select from not more than five (5) candidates graded highest on the appropriate eligibility list. The board shall determine the justification for not promoting a candidate **with the higher evaluated rating** who has been certified for promotion four (4) times. If the board determines that the candidate's nonpromotion is unjustified or unsupported by the evidence, the candidate shall be promoted. The certified rank list for promotions shall be valid for two (2) years and shall not be extended. All promotional vacancies shall be filled within sixty (60) days of the vacancy.

Section 9. KRS 67C.321 is amended to read as follows:

- (1) Any officer may be removed, suspended for a period not to exceed **thirty (30)**~~[sixty (60)]~~ days, laid off, or reduced in grade by the chief for any cause which promotes the efficiency of the services, but before any such action is taken by the chief against any officer, the chief shall furnish the officer concerned with a written statement of the reasons why the described action is being taken. The officer may be reduced, removed, suspended for a period not to exceed **thirty (30)**~~[sixty (60)]~~ days, or laid off from the date the written statement of reasons is served upon her or him. Each officer removed, suspended for a period not to exceed **thirty (30)**~~[sixty (60)]~~ days, laid off, or reduced in grade shall be allowed a period of ten (10) days within which the officer may file a written answer to the charges and the reasons which caused her or his suspension, removal, or reduction. This answer shall be made a part of the official records of the police department. No trial or examination of witnesses shall be required in any such case except at the discretion of the chief. The chief shall likewise furnish a copy of the written charges and reasons for her or his action to the board.
- (2) Any citizen who makes written, sworn charges of misconduct concerning the actions of any police officer shall present the charges to the chief of police who shall investigate the charges. The chief of police shall determine what action, if any, shall be taken against the officer, subject to the limitations set out in this chapter. The citizen may appeal the determination of the chief of police to the board.

Section 10. KRS 67C.323 is amended to read as follows:

In all cases provided for in KRS 67C.321, the action of the chief shall be final except in the following cases:

- (1) Every action in the nature of a dismissal, suspension, or **demotion of a nonprobationary officer**~~[reduction]~~ made by the chief~~[,]~~ shall be subject to review by the board at the request of any officer affected by KRS 67C.301 to 67C.327. ***An appeal to the board of a dismissal, demotion, or forty (40) hour or more suspension of a nonprobationary officer shall be heard by the full board.***~~[, and]~~ The board shall give notice and hold a public hearing. After the~~[public]~~ hearing, the board shall retire in executive session to discuss the evidence introduced at the hearing and to make its determination and conclusion. While in executive session, the board shall not receive any further evidence or communication from any source prior to reaching its determination and conclusion. The board, while in executive session, may request and receive legal advice from board counsel on specific legal issues which may arise during deliberations. If a majority of the members of the board are of the opinion that the action of the chief is unjustified or unsupported by proper evidence, the order of the chief may be set aside and revoked by the board, and the board may impose the penalty or punishment it deems necessary and appropriate, if any; provided however, the board shall not impose a penalty or punishment in excess of the action of the chief. No officer shall be removed or dismissed except as provided for in this section.
- (2) ***An appeal to the board of a suspension of a nonprobationary officer of less than forty (40) hours may be heard by the full board or any hearing officer secured by the board. If the appeal is heard by a hearing officer, all rules established by the board relating to appeals of disciplinary actions shall be applicable. After the hearing, the hearing officer shall complete and submit to the board, no later than thirty (30) days after the hearing, a written recommended order which shall include his findings of fact, conclusions of law, and recommended disposition of the appeal, which may include recommended penalties. The recommended order shall also include a statement advising the appealing officer and chief fully of their exception and appeal rights. A copy of the hearing officer's recommended order shall be sent to the appealing officer and chief. Each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the board. The board shall consider the record including the recommended order in any exceptions duly filed to a recommended order, and accept and adopt or reject or modify, in whole or in part, the recommended order, or remand the appeal of the matter, in whole or in part, to the hearing officer for further proceedings as appropriate. The final order of the board shall be in writing. If the final order differs from the recommended order, it shall include separate statements of findings of fact and conclusions of law. The board shall render a final order in an administrative hearing within thirty (30) days after receipt of the hearing officer's recommended order.***
- (3) (a) Every action of a dismissal, suspension, or **demotion**~~[reduction]~~ made by the board shall be final, except that any person aggrieved may, within thirty (30) days after the action, appeal to the Circuit Court of the county in which the board meets. The board shall be named respondent as the consolidated local government police force merit board, and service shall be had on the chairman of the board. The appeal taken to the Circuit Court shall be docketed by the clerk as a civil action ***with appropriate judicial review of an administrative action or decision***~~[and shall be tried anew, as if no action had been rendered by the board]~~.

- (b) The judgment of the Circuit Court shall be subject to appeal to the Court of Appeals. The procedure as to the appeal to the Court of Appeals shall be the same as in any civil action.

Section 11. KRS 67C.325 is amended to read as follows:

Procedural due process shall be afforded to any police officer brought before the board. The officer shall be given a prompt hearing by the board, have an opportunity to confront his or her accusers, and have the privilege of presenting the board with evidence. The board shall have the power to issue subpoenas attested in the name of its chairman, to compel the attendance of witnesses, to compel the production of documents and other documentary evidence, and so far as practicable, conduct the hearing within the Kentucky Rules of Civil Procedure. Upon a showing of proper need, the board shall issue subpoenas to compel the attendance of witnesses, or to compel the production of documents and other documentary evidence for the benefits of the officer or the chief at the request of the officer or the chief. ~~Any officer not given a hearing within sixty (60) days of being charged shall be reinstated in full.~~

Section 12. KRS 67C.327 is amended to read as follows:

Upon the establishment of a consolidated local government *merit board*, the existing *or currently promulgated* promotional lists of the merit and civil service boards of the previously existing county and city of the first class governments shall remain in effect until their normal expiration date, *or no longer than two (2) years after the effective date of the ordinance required to be enacted by KRS 67C.303.*

Section 13. Whereas it is imperative to have in place employment and disciplinary procedures for police departments which will merge after the formation of a consolidated local government, 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 18, 2003

CHAPTER 119

(HB 115)

AN ACT relating to electrical workers.

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

SECTION 1. KRS CHAPTER 227A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 14 of this Act unless the context otherwise requires:

- (1) *"Authorized local licensing program" means any city, county, urban-county, charter county, or consolidated local government electrician and electrical contractor licensing program established by local ordinance for the purpose of licensing electrical workers. "Authorized local licensing program" shall include a licensing program established through a cooperative agreement between two (2) or more counties;*
- (2) *"Department" means the Department of Housing, Buildings and Construction;*
- (3) *"Electrical contractor" means any licensed individual, partnership, or corporation that is licensed to engage in, offers to engage in, or advertises or holds itself out to be qualified to engage in designing, planning, superintending, contracting of, or assuming responsibility for the installation, alteration, or repair of any electrical wiring used for the purpose of furnishing heat, light, or power, and employs electrical workers to engage in this practice. If the electrical contractor is not a master electrician, the electrical contractor shall employ at least one (1) full-time master electrician;*
- (4) *"Electrical" pertains to the installation, alteration, or repair of wires and conduits for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith;*
- (5) *"Master electrician" means any individual licensed to assume responsible charge, supervision, or direction of an electrician engaged in the construction, installation, alteration, or repair of electrical wiring used to furnish heat, light, or power;*
- (6) *"Maintenance worker or maintenance engineer" means a person who is a regular, bona fide employee or agent of a property owner, property lessor, property management company, or firm that is not in the*

electrical business but has jurisdiction over the property where the routine maintenance of electrical systems is being performed;

- (7) *"Routine maintenance of electrical systems" means the routine and periodic servicing of electrical systems, including cleaning, inspecting, and making adjustments to ensure the proper operation and the removal or replacement of component parts. "Routine maintenance of electrical systems" does not include the installation of complete electrical systems;*
- (8) *"Electrician" means any person licensed by the department who is employed by an electrical contractor and is engaged in the construction, alteration, or repair of any electrical wiring used for the purpose of furnishing heat, light, or power; and*
- (9) *"Committee" means the Electrical Advisory Committee as described in KRS 227.530.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

- (1) *A person who is not licensed as an electrical contractor shall not represent himself or herself to the public as an electrical contractor or use any terms, titles, or abbreviations which express or imply that the person is a licensed electrical contractor.*
- (2) *A person who is not licensed as a master electrician shall not represent himself or herself to the public as a master electrician or use any terms, titles, or abbreviations which express or imply that the person is a licensed master electrician.*
- (3) *A person who is not licensed as an electrician shall not represent himself or herself to the public as an electrician or use any terms, titles, or abbreviations which express or imply that the person is a licensed electrician.*
- (4) *A person who is not licensed as an electrical contractor, electrician, or master electrician shall not engage in any activities or perform any of the duties usually performed by an electrical contractor, electrician, or master electrician unless the unlicensed person is under the direct supervision of a licensed electrician or master electrician who is present on the site where the work is being performed.*
- (5) *An authorized local licensing program in existence on the effective date of this Act may contract with the department to become an agent of the department for purposes of the issuance and renewal of licenses issued pursuant to Sections 1 to 14 of this Act. The department may also contract with local governments that want to become authorized licensing programs.*
- (6) *Sections 1 to 14 of this Act shall supersede all ordinances or regulations regulating electricians, master electricians, and electrical contractors of any city, county, urban-county, charter county, or consolidated local government. This provision shall not affect city, county, urban-county, charter county, or consolidated local government regulations relating to zoning requirements or occupational payroll taxes pertaining to electricians, master electricians, and electrical contractors.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

- (1) *The provisions of Sections 1 to 14 of this Act shall not apply to installations under the exclusive control of electric utilities for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for those purposes or located outdoors on property owned or leased by the utility or on public highways, streets, or roads, or outdoors by established rights on private property.*
- (2) *Nothing in Sections 1 to 14 of this Act shall require that a maintenance worker or maintenance engineer performing routine maintenance of electrical systems be licensed.*
- (3) *Nothing in Sections 1 to 14 of this Act shall prohibit or interfere with the ability of a homeowner or farmer to install or repair electrical wiring on his or her real property.*
- (4) *Nothing in Sections 1 to 14 of this Act shall require that a retailer or its agent engaged in making installations of an appliance purchased at a retail establishment be licensed.*
- (5) *Nothing in Sections 1 to 14 of this Act shall be construed to require persons making installations exempt by KRS 227.460 to be licensed or to work for a licensed person.*

- (6) *Nothing in Sections 1 to 14 of this Act shall preclude the use of unlicensed, nonresident electricians in temporary, emergency, or industrial shutdown situations. Those unlicensed, nonresident electricians shall apply for an electrician's license or a master electrician's license after they are employed and engaged in electrical work in the Commonwealth of Kentucky for a period of thirty (30) days. The license shall be obtained by the temporary, unlicensed, nonresident electricians within sixty (60) days of securing employment.*
- (7) *Nothing in Sections 1 to 14 of this Act shall apply to a person performing work at a surface or underground coal mine or at a coal preparation plant.*
- (8) *Nothing in Sections 1 to 14 of this Act shall apply to a person performing work for a telecommunications company for which the voltage is fifty (50) volts or less.*
- (9) *Nothing in Sections 1 to 14 of this Act shall prohibit a factory-authorized representative from the installation, maintenance, or service of a medical equipment device. This exemption does not include work providing electrical feeds into the power distribution unit or installation of conduits and raceways. This exemption covers only those factory engineers or third-party service companies with equivalent training who are qualified to perform such service.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

- (1) *The department, with assistance from the Electrical Advisory Committee, shall administer and enforce the provisions of Sections 1 to 14 of this Act and shall evaluate the qualifications of applicants for licensure.*
- (2) *The department may issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of Sections 1 to 14 of this Act or the administrative regulations promulgated under Sections 1 to 14 of this Act and KRS Chapter 13A.*
- (3) *The department shall conduct hearings under KRS Chapter 13B and keep records and minutes necessary to carry out the function of Sections 1 to 14 of this Act.*
- (4) *The department, with assistance from the Electrical Advisory Committee, shall evaluate the qualifications of applicants and issue licenses to qualified candidates.*
- (5) *The department shall renew licenses.*
- (6) *The department may:*
 - (a) *Refuse to issue or renew a license;*
 - (b) *Suspend or revoke a license;*
 - (c) *Impose supervisory or probationary conditions upon a licensee;*
 - (d) *Impose administrative disciplinary fines;*
 - (e) *Issue written reprimands or admonishments; and*
 - (f) *Take any combination of the actions permitted in this subsection.*
- (7) *The department may seek injunctive relief in the Circuit Court of Franklin County, in the county in which the violation occurred, or in the county where the business of the accused is located to stop any unlawful practice in Sections 1 to 14 of this Act and administrative regulations promulgated thereunder. The department may also seek injunctive relief for unlicensed persons who inappropriately use the title "electrical contractor," "electrician," or "master electrician."*
- (8) *The department, with advice from the Electrical Advisory Committee, may promulgate administrative regulations to create a code of ethics and procedures governing the licensure of electrical contractors, electricians, and master electricians.*
- (9) *The department may enter into reciprocal agreements with other states having licensure, certification, or registration qualifications and requirements substantially equal to those of this state.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

- (1) *All fees and other moneys received by the department under the provisions of Sections 1 to 14 of this Act shall be deposited in the State Treasury to the credit of a revolving fund for use by the department in administering the provisions of Sections 1 to 14 of this Act.*

- (2) *No part of this revolving fund shall revert to the general funds of the Commonwealth.*
- (3) *An authorized local licensing program under Sections 1 to 14 of this Act shall negotiate with the department the amount of the fees to be retained by the authorized local licensing program.*
- (4) *Funds for the initial administration of Sections 1 to 14 of this Act, following the effective date of this Act and to the extent fee income is insufficient to meet actual costs as determined by the chief budget officer for the department, shall be borrowed from surplus trust and agency accounts of the department and repaid without interest over no more than the succeeding two (2) fiscal years.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

- (1) *The department shall issue a license as an "electrical contractor" to an applicant who meets the following requirements:*
 - (a) *Has paid to the department the application fee not to exceed two hundred dollars (\$200) and the appropriate examination fee, which shall not exceed the actual cost of examination;*
 - (b) *Has achieved a passing score, as set by the department, on all portions of the examination required by the department. The department shall promulgate administrative regulations to specify who shall take the examination if the applicant is a business entity; and*
 - (c) *Has submitted proof that he or she has complied with workers' compensation and unemployment insurance laws and administrative regulations and has obtained a general liability insurance policy of not less than five hundred thousand dollars (\$500,000).*
- (2) *The department shall issue a license as a "master electrician" to an applicant who meets the following requirements:*
 - (a) *Has paid to the department the application fee not to exceed one hundred dollars (\$100) and the appropriate examination fee not to exceed the actual cost of the examination;*
 - (b) *Has completed:*
 - 1. *Six (6) years of verifiable experience in the electrical trade; and*
 - 2. *A training course on electrical work, acceptable to the department, or an additional two (2) years of verifiable experience in the electrical trade; and*
 - (c) *Has achieved a passing score, as set by the department, on all portions of the examination required by the department.*
- (3) *The department shall issue a license as an "electrician" to an applicant who meets the following requirements:*
 - (a) *Has paid to the department the application fee not to exceed fifty dollars (\$50) and the appropriate examination fee not to exceed the actual cost of the examination;*
 - (b) *Has completed:*
 - 1. *Four (4) years of verifiable experience in the electrical trade; and*
 - 2. *A training course on electrical work, acceptable to the department, or an additional two (2) years of verifiable experience in the electrical trade; and*
 - (c) *Has achieved a passing score, as set by the department, on all portions of the examination required by the department.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

Upon application to the department and payment of all applicable fees, the department shall license by endorsement an applicant who is registered, licensed, or certified in another state if the requirements for registration, licensing, or certification in the issuing state are substantially equal to the requirements for licensing in the Commonwealth of Kentucky and the applicant is in good standing in the issuing state. The department shall license an applicant by endorsement only if the issuing state extends similar reciprocity to Kentucky citizens licensed under Sections 1 to 14 of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

- (1) *Upon payment of all applicable fees, an applicant for licensure as a master electrician under Section 6 of this Act making application to the department prior to July 15, 2004, may be licensed by the department without completing the licensure requirements as established in Section 6 of this Act if:*
 - (a) *The applicant is currently licensed by a city, county, urban-county, consolidated local government, or the state of Kentucky; or*
 - (b) *The applicant is currently licensed, certified, or registered as a master electrician in another state whose standards are substantially equal to those in Section 6 of this Act.*
- (2) *Prior to July 15, 2004, an applicant who does not qualify for licensure under subsection (1) of this section or Section 6 of this Act may qualify for licensure by the following:*
 - (a) *An applicant for licensure as an electrical contractor shall qualify by showing a minimum of two (2) years of verifiable experience engaging in the work of an electrical contractor in this state;*
 - (b) *An applicant for licensure as a master electrician shall qualify by showing a minimum of six (6) years of verifiable experience as an electrical worker in this state; and*
 - (c) *An applicant for licensure as an electrician shall qualify by showing a minimum of four (4) years of verifiable experience as an electrical worker in this state.*

Under this subsection, any individual who is currently engaged in the work of an electrical contractor, electrician, or master electrician but who has not been licensed by the state or any locality may qualify for licensure in lieu of requirements in Section 6 of this Act by documenting the appropriate years of experience in his or her respective area.

- (3) *After July 15, 2004, licensure under this section shall cease.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

- (1) *The department, with advice from the Electrical Advisory Committee, shall select and approve an examination to be used in determining the competency of persons to be licensed under Sections 1 to 14 of this Act. Examinations selected and approved for each level of licensing shall be nationally recognized examinations which have been determined through proper validation techniques to measure successfully an individual's competency to perform the licensed practice.*
- (2) *The department shall offer the examinations on a regularly scheduled basis in localities determined by the committee. The department shall offer the examinations through any authorized local licensing program.*
- (3) *The department may contract with an outside entity or testing service for the administration of examinations required for licensure.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

- (1) *Each licensee licensed under the provisions of Sections 1 to 14 of this Act shall annually, on or before the anniversary date of the license, pay to the department a renewal fee as established in administrative regulations promulgated by the department.*
- (2) *A sixty (60) day grace period shall be allowed after the anniversary date of the license during which time a licensee may continue to practice and may renew his or her license upon payment of the renewal fee plus a late renewal fee as promulgated by administrative regulation of the department.*
- (3) *A license not renewed before the end of the sixty (60) day grace period shall terminate based on the failure of the licensee to renew in a timely manner. Upon termination, the licensee is no longer eligible to practice in the Commonwealth.*
- (4) *After the sixty (60) day grace period, a former licensee with a terminated license may have the license reinstated upon payment of the renewal fee plus a reinstatement fee as promulgated by administrative regulation of the department. An applicant for reinstatement after termination of the license shall not be required to submit to any examination as a condition for reinstatement, if the reinstatement application is made within three (3) years from the date of termination.*
- (5) *A suspended license is subject to expiration and termination and shall be renewed as provided in this section. Renewal shall not entitle the licensee to engage in the practice until the suspension has ended or is otherwise removed by the department and the right to practice is restored by the department.*

- (6) *A revoked license is subject to expiration or termination but may not be renewed. If it is reinstated, the former licensee shall pay the reinstatement fee as promulgated by administrative regulations under subsection (4) of this section and the renewal fee as promulgated by administrative regulations under subsection (1) of this section.*
- (7) *The department shall require an applicant for renewal or reinstatement of a license to show evidence of completing at least six (6) hours of continuing education provided by the National Electrical Contractors Association, the Associated Builders and Contractors, the International Brotherhood of Electrical Workers, the Associated General Contractors, the International Association of Electrical Inspectors, the Independent Electrical Contractors Association, the Kentucky Department of Housing, Buildings and Construction, or other provider of instruction approved by the department. The department shall promulgate administrative regulations establishing the content of the programs and the qualifications of the providers.*
- (8) *The department shall require, where applicable, that an applicant for renewal or reinstatement of a license submit proof that the applicant has complied with workers' compensation and unemployment insurance laws and regulations and has obtained a general liability insurance policy of not less than five hundred thousand dollars (\$500,000).*

SECTION 11. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

- (1) *The department may, following a hearing pursuant to KRS Chapter 13B, impose sanctions specified in Section 4 of this Act upon proof that the licensee has:*
 - (a) *Misrepresented or concealed a material fact in obtaining a license, or in the reinstatement thereof;*
 - (b) *Been incompetent or negligent in the practice of performing electrical work;*
 - (c) *Failed to comply with an order issued by the department or an assurance of voluntary compliance;*
or
 - (d) *Violated any provisions of Sections 1 to 14 of this Act and administrative regulations promulgated thereunder.*
- (2) *One (1) year from the date of a revocation, any former licensee whose license has been revoked may petition the department for reinstatement. The department shall investigate the petition and may reinstate the license upon a finding that the applicant has complied with any terms prescribed by the department and is again able to competently engage in the practice of performing electrical work.*
- (3) *At any time during the investigative or hearing processes, the department may enter into an agreed order or accept an assurance of voluntary compliance with the license holder which effectively deals with the complaint.*
- (4) *The department may reconsider, modify, or reverse its probations, suspensions, or other disciplinary actions.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

Any party aggrieved by a disciplinary action of the department may bring an action in the Circuit Court of Franklin County under the provisions of KRS Chapter 13B.

SECTION 13. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

Any person who violates or aids in the violation of any provision of Section 2 of this Act shall be guilty of a misdemeanor and upon conviction shall be fined not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000), or sentenced to jail for not less than ten (10) nor more than one hundred eighty (180) days, or both.

SECTION 14. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

- (1) *A master electrician who ceases to be associated with the electrical contractor and is the representative by which the licensed electrical contractor qualifies shall immediately report his or her disassociation to the department or the authorized local licensing program. The master electrician shall be responsible for all work done under his or her license until the department or the authorized local licensing program is notified by the master electrician that he or she is no longer associated with the electrical contractor.*

- (2) *If the holder of any electrical license ceases to be a part of the business relying upon the holder's license for its right to remain in business, the business shall employ a licensed person prior to the continuance of any business activity or within thirty (30) days, whichever comes first.*

Section 15. KRS 227.450 is amended to read as follows:

As used in KRS 227.450 to 227.500 unless the context otherwise requires:

- (1) "Electrical contractor" means any *licensed* individual, partnership, or corporation that *is licensed to engage in, offers to engage in, or advertises or holds itself out to be qualified to engage in designing, planning, superintending, contracting of, or assuming responsibility for the installation, alteration, or repair of any electrical wiring used for the purpose of furnishing heat, light, or power, and employs electrical workers to engage in this practice. If the electrical contractor is not a master electrician, the electrical contractor shall employ at least one (1) full-time master electrician*~~engages in the business of or employs others for the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power~~;
- (2) "Electrician" means any person *licensed by the department* who is employed by an electrical contractor and is engaged in the construction, alteration, or repair of any electrical wiring used for the purpose of furnishing heat, light, or power;
- (3) "Electrical" pertains to the installation, *alteration, or repair* of wires and conduits for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith;
- (4) "Electrical inspector" means any person certified by the commissioner of housing, buildings and construction pursuant to KRS 227.489 who, for compensation, inspects the construction and installation of electrical conductors, fittings, devices and fixtures for light, heat or power service equipment to ascertain the compliance with the National Electrical Code incorporated in the Uniform State Building Code promulgated pursuant to KRS 198B.050 or the standards of safety of the Commonwealth of Kentucky; and
- (5) "Department" means the Department of Housing, Buildings and Construction.

Section 16. KRS 227.480 is amended to read as follows:

- (1) A city,~~or~~ county, *urban-county, or consolidated local government* shall, according to the Uniform State Building Code as it pertains to the plan review and inspection responsibilities of local governments, require any person to obtain permits before commencing construction, alteration, or repairs of any electrical wiring, and require such inspection as it deems necessary for the safety of life and property.
- (2) A city,~~or~~ county, *urban-county, or consolidated local government* or the state shall not issue a permit unless the applicant submits *proof of being licensed under Sections 1 to 14 of this Act*~~, through an affidavit or other means prescribed by the city, county or state, that he has complied with workers' compensation and unemployment insurance laws and regulations. The city or county shall also require the applicant to submit proof in the manner prescribed above that he has obtained a general liability insurance policy of not less than two hundred fifty thousand dollars (\$250,000) which is in effect. Failure to comply with this requirement shall be grounds for suspension or revocation of an electrical contractor license~~. However, the provisions of this subsection shall not apply to a homeowner or farmer who does construction, alteration, or repairs of any electrical wiring on *his or her*~~their~~ own premises.
- (3) A city,~~or~~ county, *urban-county, or consolidated local government shall*~~may~~ appoint and *may* fix the compensation of city,~~or~~ county, *urban-county, or consolidated local government* electrical inspectors, and may by ordinance fix reasonable fees and establish other requirements for the conduct of electrical inspections within its boundaries. All electrical inspectors must be certified under KRS 227.489.
- (4) Reasonable standards for the construction, alteration, and repair of any electrical wiring shall be those adopted in the Uniform State Building Code, as promulgated by the Board of Housing, Buildings and Construction, and shall have as a minimum standard the requirements of the National Electric Code. These standards shall be used by the electrical inspector in making his inspections.

Section 17. KRS 227.530 is amended to read as follows:

- (1) There is hereby created an Electrical Advisory Committee which shall be attached to the Department of Housing, Buildings and Construction for administrative purposes. The committee shall be constituted as follows:

- (a) Two (2) members chosen from public utility companies;
 - (b) Two (2) members who are electricians;
 - (c) Two (2) members who are certified electrical inspectors, one (1) of whom shall be employed by a governmental entity and the other who shall be an independent contractor engaged in the business of inspecting electrical installations;
 - (d) Two (2) members who are licensed professional electrical engineers;~~and~~
 - (e) Two (2) members who are engaged in the business of electrical contracting; *and*
 - (f) ***One (1) member who is engaged in the business of electrical contracting and who employs no more than five full-time employees when appointed.***
- (2) Committee members shall be appointed by the Governor for four (4) year terms. No committee member shall be appointed for more than one (1) successive term.
 - (3) The committee shall meet at least quarterly or upon request of the department for the purpose of considering matters relating to electrical installations and electrical inspections. The committee shall make recommendations to and otherwise advise the department on these matters.
 - (4) All committee members shall be compensated for expenses incurred in the conduct of Commonwealth business.

Section 18. Effective July 15, 2004, the following KRS sections are repealed:

227.490 Local examination -- Examining board -- Local license -- Disciplinary action.

227.4901 Examination for electrical contractors -- Issuance of electrical contractor examination certificate -- Reports on disciplinary actions against licensed contractors -- Administrative regulations.

Approved March 18, 2003

CHAPTER 120

(HB 163)

AN ACT relating to access to justice programs.

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

Section 1. KRS 27A.630 is amended to read as follows:

- (1) Upon receipt of notice of designation of an agency by the circuit clerk, there shall be added to the filing fee in all civil actions filed in Circuit Court the sum of ~~twenty~~~~ten~~ dollars ~~(\$20)~~~~(\$10)~~, and to all civil actions filed in District Court, the sum of ~~ten~~~~five~~ dollars ~~(\$10)~~~~(\$5)~~. No fee shall be charged for actions filed in neglect and dependency cases ~~or in the small claims division of District Court~~. This fee shall be designated as the Access to Justice Fee, and shall be charged at the time of filing of the first papers in the action.
- (2) All fees collected pursuant to subsection (1) of this section during each month shall be placed in the general fund of the State Treasury, and appropriated in accordance with subsection (3) of this section. The clerks shall make a full report with the payment and receive a receipt for all payments.
- (3) Fees collected shall be distributed monthly to the designated agencies on a pro rata basis, utilizing an allocation formula that distributes funds for each judicial district served, according to the proportion of the number of residents of that judicial district whose incomes are less than the official United States federal poverty guidelines, based on latest published United States census data, as a percentage of the total number of these residents in the Commonwealth of Kentucky. These funds shall be used by the designated agency to carry out the duties prescribed in KRS 27A.610.
- (4) All unused or uncommitted funds received by a designated agency during its fiscal year shall be returned by the designated agency to the State Treasury, to be redistributed in the following calendar quarter to operating designated agencies in accordance with administrative regulations promulgated by the Administrative Office of the Courts.

- (5) *Notwithstanding the provisions of subsections (1) to (4) of this section, an amount not to exceed two hundred thousand dollars (\$200,000) from the fee imposed under subsection (1) of this section shall be appropriated to organizations that specialize in providing legal representation and services to children.*

Approved March 18, 2003

CHAPTER 121

(HB 181)

AN ACT relating to the establishment of Organ Donor Awareness Week.

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:

- (1) *The fourth week of April of each year is designated as Organ Donor Awareness Week, and the Governor shall annually issue a proclamation inviting and urging the people of the Commonwealth to be involved with appropriate activities. This observance is created to educate the citizens of the Commonwealth about the importance of organ donation.*
- (2) *As part of Organ Donor Awareness Week, the Governor and the House of Representatives and the Senate of the General Assembly shall honor those persons who have donated organs and surviving family members with a ceremony in the Capitol rotunda. Each person who has donated an organ shall be recognized collectively by citation and, upon request, the person or the person's family shall be given a copy of the citation. The Governor may establish an organ donor honor board to collect the name of each person, subject to the person's consent, who donates an organ in the Commonwealth during the year, and to recognize medical professionals, educators, volunteers, public employees, and private organizations that are involved with the organ donation process. Nothing in this section shall be construed to require reporting of the name of any person involved with the organ donation process or to supercede patient confidentiality protections established by statute, the Board of Medical Licensure or other state entity, or the Federal Health Insurance Portability and Accountability Act.*
- (3) *Education efforts are encouraged to focus on the importance of organ donation and its significance with saving the lives of Kentuckians. The Cabinet for Health Services is encouraged to develop and circulate materials relating to organ donation.*

Approved March 18, 2003

CHAPTER 122

(HB 281)

AN ACT relating to the Motorcycle Advisory Commission for Highway Safety.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

- (1) *The Motorcycle Advisory Commission for Highway Safety is established as an advisory body to assist the Transportation Cabinet in ensuring that highway design, construction, and maintenance policies and procedures consider the specific needs of motorcyclists.*
- (2) *The commission shall examine Transportation Cabinet policies and procedures in areas including but not limited to crash barrier design, road maintenance practices, road construction, traffic control devices, and intelligent transportation systems, and recommend changes where necessary.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

- (1) *The Motorcycle Advisory Commission for Highway Safety shall be comprised of seven (7) members, appointed as follows:*
 - (a) *One (1) representative of the Office of Construction and Operations within the Kentucky Transportation Cabinet's Department of Highways, appointed by the Governor;*

- (b) *One (1) representative of the Office of Project Development within the Kentucky Transportation Cabinet's Department of Highways, appointed by the Governor;*
 - (c) *One (1) representative of the Kentucky State Police, appointed by the Governor;*
 - (d) *Two (2) representatives 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 of the Kentucky Motorcycle Safety Education Advisory Commission, appointed by the Governor; and*
 - (f) *One (1) representative of the Kentucky Association of Highway Contractors, to be appointed by the Governor from a list of five (5) nominees selected by the association.*
- (2) *Except for initial appointments as provided for in Section 3 of this Act, members of the Motorcycle Advisory Commission for Highway Safety 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) *A majority of the members of the commission constitutes a quorum and 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.*
 - (8) *For administrative purposes, the commission shall be attached to the Transportation Cabinet's Office of the Secretary.*

Section 3. The initial terms of members of the Motorcycle Advisory Commission for Highway Safety shall be as follows:

- (1) The representative of the Kentucky State Police shall serve a term which expires June 30, 2004;
- (2) The representative of the Transportation Cabinet's Office of Project Development and one (1) representative of the Kentucky Motorcycle Association shall serve terms which expire June 30, 2005;
- (3) The representative of the Kentucky Motorcycle Safety Education Advisory Commission and one (1) representative of the Kentucky Motorcycle Association shall serve terms which expire June 30, 2006; and
- (4) The representative of the Transportation Cabinet's Office of Construction and Operations and the representative of the Kentucky Association of Highway Contractors shall serve terms which expire June 30, 2007.

Approved March 18, 2003

CHAPTER 123

(HB 289)

AN ACT relating to construction defect claims asserting property loss and damage.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 9 of this Act, unless the context otherwise requires:

- (1) *"Action" means any civil lawsuit or action in contract or tort for damages or indemnity brought against a construction professional to assert a claim, whether by complaint, counterclaim, or cross-claim, for damage or the loss of use of real or personal property caused by a defect in the construction of a residence.*

"Action" does not include any civil action in tort alleging personal injury or wrongful death to a person or persons resulting from a construction defect;

- (2) *"Claimant" means a homeowner who asserts a claim against a construction professional concerning a defect in the construction of a residence;*
- (3) *"Construction professional" means a builder;*
- (4) *"Homeowner" means any person, company, firm, partnership, corporation, association, or other entity that contracts with a construction professional for the construction of a residence. "Homeowner" includes but is not limited to a subsequent purchaser of a residence from any homeowner;*
- (5) *"Residence" means a single-family house, duplex, triplex, or quadraplex, or a unit in a multiunit residential structure in which title to each individual unit is transferred to the owner under a condominium regime as established in KRS 381.815 and shall include general common elements and limited common elements as defined in KRS 381.810; and*
- (6) *"Serve" or "service" means personal service or delivery by certified mail to the last known address of the addressee.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that limited changes in the law are necessary and appropriate concerning actions claiming damages, indemnity, or contribution in connection with alleged residential construction defects. It is the intent of the General Assembly that Sections 1 to 9 of this Act apply to these types of civil actions while preserving adequate rights and remedies for homeowners who bring and maintain such actions.

SECTION 3. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 9 of this Act shall:

- (1) *Apply to any claim that arises before, on, or after July 15, 2003, as the result of a construction defect, except a claim for personal injury or wrongful death, if the claim is the subject of an action commenced on or after July 15, 2003;*
- (2) *Prevail over any conflicting law otherwise applicable to the claim or cause of action;*
- (3) *Not bar or limit any claim or defense otherwise available except as otherwise provided in Sections 1 to 9 of this Act; and*
- (4) *Not create a new theory upon which liability may be based.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

In a claim to recover damages resulting from a construction defect, a construction professional is liable for his or her acts or omissions or the acts or omissions of his or her agents, employees, or subcontractors and is not liable for any damages caused by:

- (1) *The acts or omissions of a person other than the construction professional or his or her agent, employee, or subcontractor;*
- (2) *The failure of a person other than the construction professional or his or her agent, employee, or subcontractor to take reasonable action to reduce the damages or maintain the residence;*
- (3) *Normal wear, tear, or deterioration;*
- (4) *Normal shrinkage, swelling, expansion, or settlement; or*
- (5) *Any construction defect disclosed to a claimant before his or her purchase of the residence, if the disclosure was provided in writing and in language that is understandable and was signed by the claimant.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

- (1) *In every construction defect action brought against a construction professional, the claimant shall serve written notice of claim on the construction professional. The notice of claim shall state that the claimant asserts a construction defect claim against the construction professional and shall describe the claim in reasonable detail sufficient to determine the general nature of the defect.*
- (2) *Within twenty-one (21) days after service of the notice of claim, the construction professional shall serve a written response on the claimant by registered mail or personal service. The written response shall:*

- (a) *Propose to inspect the residence that is the subject of the claim and to complete the inspection within a specified time frame. The proposal shall include the statement that the construction professional shall, based on the inspection, offer to remedy the defect, compromise by payment, or dispute the claim;*
 - (b) *Offer to compromise and settle the claim by monetary payment without inspection. A construction professional's offer under this paragraph to compromise and settle a homeowner's claim may include but is not limited to an express offer to purchase the claimant's residence that is the subject of the claim, and to pay the claimant's reasonable relocation costs; or*
 - (c) *State that the construction professional disputes the claim and will neither remedy the construction defect nor compromise and settle the claim.*
- (3) (a) *If the construction professional disputes the claim or does not respond to the claimant's notice of claim within the time stated in subsection (2) of this section, then the claimant may bring an action against the construction professional for the claim described in the notice of claim without further notice.*
- (b) *If the claimant rejects the inspection proposal or the settlement offer made by the construction professional pursuant to subsection (2) of this section, then the claimant shall serve written notice of the claimant's rejection on the construction professional. After service of the rejection, the claimant may bring an action against the construction professional for the construction defect claim described in the notice of claim. If the construction professional has not received from the claimant, within thirty (30) days after the claimant's receipt of the construction professional's response, either an acceptance or a rejection of the inspection proposal or settlement offer, then at any time thereafter the construction professional may terminate the proposal or offer by serving written notice to the claimant, and the claimant may thereafter bring an action against the construction professional for the construction defect claim described in the notice of claim.*
- (4) (a) *If the claimant elects to allow the construction professional to inspect in accordance with the construction professional's proposal pursuant to subsection (2)(a) of this section, then the claimant shall provide the construction professional and its contractors or other agents reasonable access to the claimant's residence during normal working hours to inspect the premises and the claimed defect.*
- (b) *Within fourteen (14) days following completion of the inspection, the construction professional shall serve on the claimant:*
1. *A written offer to remedy the construction defect at no cost to the claimant, including a report of the scope of the inspection, the findings and results of the inspection, a description of the additional construction necessary to remedy the defect described in the claim, and a timetable for the completion of this construction; or*
 2. *A written offer to compromise and settle the claim by monetary payment pursuant to subsection (2)(b) of this section; or*
 3. *A written statement that the construction professional will not proceed further to remedy the defect.*

The claimant shall have the right to accept or reject the proposed construction defect correction, or the monetary offer to settle the claim.

- (c) *If the construction professional does not proceed further to remedy the construction defect within the agreed timetable, or if the construction professional fails to comply with the provisions of paragraph (b) of this subsection, then the claimant may bring an action against the construction professional for the claim described in the notice of claim without further notice.*
- (d) *If the claimant rejects the offer made by the construction professional pursuant to paragraph (b)1. or 2. of this subsection to either remedy the construction defect or to compromise and settle the claim by monetary payment, then the claimant shall serve written notice of the claimant's rejection on the construction professional. After service of the rejection notice, the claimant may bring an action against the construction professional for the construction defect claim described in the notice of claim. If the construction professional has not received from the claimant, within thirty (30) days*

after the claimant's receipt of the construction professional's response, either an acceptance or a rejection of the offer made pursuant to paragraph (b)1. or 2. of this subsection, then at any time thereafter the construction professional may terminate the offer by serving written notice to the claimant.

- (5) (a) *Any claimant accepting the offer of a construction professional to remedy the construction defect pursuant to subsection (4)(b)1. of this section shall do so by serving the construction professional with a written notice of acceptance within a reasonable time period after receipt of the offer, and no later than thirty (30) days after receipt of the offer. The claimant shall provide the construction professional and its contractors or other agents reasonable access to the claimant's residence during normal working hours to perform and complete the construction by the timetable stated in the offer.*
- (b) *The claimant and construction professional may, by written mutual agreement, alter the extent of construction or the timetable for completion of construction stated in the offer, including but not limited to repair of additional defects.*
- (6) *If a claimant files a complaint, counterclaim, or cross-claim prior to meeting the requirements of this section, then the court may issue an order holding the action in abeyance until the parties comply with this section.*
- (7) *Nothing in this section may be construed to prevent a claimant from commencing an action on the construction defect claim described in the notice of claim if the construction professional fails to perform the construction agreed upon, fails to remedy the defect, or fails to perform by the timetable agreed upon pursuant to subsection (2)(a) or (5) of this section.*
- (8) *The service of an amended notice of claim shall relate back to the original notice of claim for purposes of tolling statutes of limitations and repose.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

- (1) *The construction professional shall provide notice to each homeowner, upon entering into a contract for the construction of a residence, of the construction professional's right to offer to cure construction defects before a homeowner may commence litigation against the construction professional. The notice shall be conspicuous and may be included as part of the underlying contract signed by the homeowner.*
- (2) *The notice required by this section shall be in substantially the following form: "SECTIONS 1 TO 6 OF THIS ACT CONTAIN IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT FOR DEFECTIVE CONSTRUCTION AGAINST THE BUILDER OF YOUR HOME. YOU MUST DELIVER TO THE BUILDER A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE AND PROVIDE YOUR BUILDER THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR OR PAY FOR THE DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY THE BUILDER. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER STATE LAW, AND FAILURE TO FOLLOW THEM MAY AFFECT YOUR ABILITY TO FILE A LAWSUIT."*
- (3) *Sections 1 to 9 of this Act shall not preclude or bar any action if notice is not given to the homeowner as required by this section.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

- (1) *Nothing in Sections 1 to 9 of this Act shall be construed to hinder or otherwise affect the employment, agency, or contractual relationship between and among homeowners and construction professionals during the process of construction and nothing in Sections 1 to 9 of this Act precludes the termination of those relationships as allowed under other law.*
- (2) *Nothing in Sections 1 to 9 of this Act shall negate or otherwise restrict a construction professional's right to access or inspection provided by law, covenant, easement, or contract.*
- (3) *Noncompliance by the homeowner with Section 5 of this Act shall not operate as an affirmative defense in an action against a construction professional by the homeowner or another construction professional for emergency repairs.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

If a written notice of claim is served under Section 5 of this Act, then the statute of limitation for the underlying action is tolled until seventy-five (75) days after the expiration of the time frame agreed to by the parties as

permitted in subsection (2) of Section 5 of this Act, or the date established for inspection pursuant to subsection (2)(a) of Section 5 of this Act, or the expiration of the time frame contained in subsection (4)(b) of Section 5 of this Act, whichever occurs later.

SECTION 9. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 9 of this Act shall be known as the Notice and Opportunity to Repair Act.

Approved March 18, 2003

CHAPTER 124

(HB 293)

AN ACT relating to taxation and governmental services provided therefrom.

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

Section 1. KRS 139.050 is amended to read as follows:

- (1) "Gross receipts" *and "sales price" mean*~~means~~ *the total amount or consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented,*~~of the sale, lease, or rental price, as the case may be, of "retail sales," or "sales at retail,"~~ *valued in money, whether received in money or otherwise, without any deduction for*~~on account of~~ *any of the following:*
 - (a) The *retailer's* cost of the property sold~~. However, in accordance with rules and administrative regulations as the cabinet may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale, has reimbursed his vendor for tax which the vendor is required to pay to the state, or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property;~~
 - (b) The cost of the materials used, labor or service cost, interest~~paid~~, losses, *all costs of transportation to the retailer, all taxes imposed on the retailer, or any other expense of the retailer;*
 - (c) *Charges by the retailer for any services necessary to complete the sale*~~The cost of transportation of the property prior to its sale to the purchaser;~~~~or~~
 - (d) *Delivery charges, which are defined as charges by the retailer for the preparation and delivery to a location designated by the purchaser including transportation, shipping, postage, handling, crating, and packing; and*
 - (e) *Any amount for which credit is given to the purchaser by the retailer, other than credit for property traded when the property traded is of like kind and character to the property purchased and the property traded is held by the retailer for resale*~~Any charge for bundled transactions, where goods and services are sold as a single package for one (1) price.~~
- (2) *"Gross receipts" and "sales price" shall not include*~~The total amount of the sale or lease or rental price includes all of the following~~:
 - (a) *Discounts, including cash, term, or coupons that are not reimbursed by a third party, and that are allowed by a retailer and taken by a purchaser on a sale*~~Any services that are a part of the sale;~~
 - (b) *Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser*~~All receipts, cash, credits, and property of any kind;~~
 - (c) *Any taxes legally imposed directly on the purchaser that are separately stated on the invoice, bill of sale, or similar document given to the purchaser; or*
 - (d) *The amount charged for labor or services rendered in installing or applying the property or service sold, provided the amount charged is separately stated on the invoice, bill of sale, or similar document given to the purchaser*~~Any amount for which credit is allowed by the seller to the purchaser;~~

~~other than credit for property traded when the property so traded is of like kind and character to the property purchased and the property traded is held for resale.~~

~~{(3) "Gross receipts" do not include any of the following:~~

- ~~(a) Cash discounts allowed and taken on sales (provided that premium or trading stamps shall not be considered as cash discounts);~~
- ~~(b) Sale price of property returned by customers when the full sale price is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;~~
- ~~(c) The price received for labor or services used in installing or applying the property sold;~~
- ~~(d) The amount of any tax (not including, however, any manufacturer's excise or import duty) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer;~~
- ~~(e) Sales of gasoline and special fuels subjected to tax under KRS Chapter 138;~~
- ~~(f) The sales price of any motor vehicle as defined by KRS 138.450 which is registered for use on the public highways and upon which any applicable tax levied under KRS 138.460 has been paid; or, the sales price of vehicles defined under KRS 189.010(12) and 189.010(17);~~
- ~~(g) Sales of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale under the provisions of KRS Chapter 243;~~
- ~~(h) Amounts received for communications services utilized in providing a prepaid calling arrangement as defined in KRS 139.160.~~

~~(4) For purposes of the sales tax, if the retailer establishes to the satisfaction of the cabinet that the sales tax has been added to the total amount of the sale price and has not been absorbed by the retailer, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.]~~

Section 2. KRS 139.100 is amended to read as follows:

(1) "Retail sale" ~~{ or "sale at retail" }~~ means *any* ~~:-~~

- ~~(a) 1. A sale, *lease, or rental* for any purpose other than resale, *sublease, or subrent* in the regular course of business of tangible personal property; or~~
- ~~2. The furnishing of the facilities and services mentioned in subsection (2) of this section;~~
- ~~(b) The delivery in this state of tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer pursuant to a retail sale made by a retailer not engaged in business in this state. The person making the delivery shall include the retail selling price of the property in his gross receipts.~~

~~(2) "Retail sale" or "sale at retail" shall include but shall not be limited to the following:~~

- ~~(a) The rental of any room or rooms, lodgings, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply, however, to rooms, lodgings, or accommodations supplied for a continuous period of thirty (30) days or more to an individual;~~
- ~~(b) The furnishing of sewer services;~~
- ~~(c) The sale of admissions, except those taxed under KRS 138.480;~~
- ~~(d) The furnishing of communications services, other than mobile telecommunications services as defined in 4 U.S.C. sec. 124, to a service address in this state, regardless of where those services are billed or paid, when the communications service:~~
 - ~~1. Originates and terminates in this state;~~
 - ~~2. Originates in this state; or~~

3. ~~Terminates in this state;~~
- (e) ~~The furnishing of mobile telecommunications services as defined in 4 U.S.C. sec. 124 to a customer with a service address in this state.~~
- (3) ~~For the purposes of this chapter, "communications service" means the provision, transmission, conveyance, or routing, for a consideration, of voice, data, video, or any other information or signals of the purchaser's choosing to a point, or between or among points, specified by the purchaser, by or through any electronic, radio, light, fiber optics, or any similar medium or method now in existence or later devised. "Communications service" includes but is not limited to local telephone services, long distance telephone services, telegraph services, teletypewriter services, teleconferencing services, private line services involving a direct channel specifically dedicated to a customer's use between specific points, channel services involving a path of communications between two (2) or more points, data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method, caller ID services, voice mail and other electronic messaging services, mobile communications service, and Internet telephony involving telephone service in which messages originate or terminate over the public switched telephone network but are transmitted in part using transmission control protocol, Internet protocol, or other similar means. "Communications service" does not include any of the following if the charges for the goods or services are separately itemized on the bill provided to the purchaser:~~
- (a) ~~Information services;~~
- (b) ~~Internet access;~~
- (c) ~~Installation, reinstallation, or maintenance of wiring or equipment on a customer's premises. However, this provision does not apply to any charge attributable to the connection, movement, change, or termination of a communication service;~~
- (d) ~~The sale of directory and other advertising and listing services;~~
- (e) ~~The sale of one way paging services;~~
- (f) ~~Billing and collection services provided to another communications service provider; or~~
- (g) ~~Cable service, satellite broadcast, satellite master antenna television, and wireless cable service, including direct to home satellite service as defined in Section 602 of the Federal Cable Act of 1996.~~
- (4) ~~For the purposes of this chapter, "service address" means:~~
- (a) ~~The location of communications equipment from which communications service is originated or at which communications service is received by the purchaser. In the event that this is not a defined location, as in the case of maritime systems, air to ground systems, third number and calling card calls, service address means the location of the purchaser's primary use of the communications equipment, as determined by telephone number, authorization code, the purchaser's billing address, or other street address provided by the purchaser as the location of primary use, but the address must be within the licensed service area of the communications service provider;~~
- (b) ~~In the case of a communications service, other than mobile telecommunications services as defined in 4 U.S.C. sec. 124, paid through a credit or payment mechanism that does not relate to a service address, such as a bank, travel, debit, or credit card, the service address is deemed to be the address of the origination of the communications service; and~~
- (c) ~~In the case of mobile telecommunications service as defined in 4 U.S.C. sec. 124, the service address shall be the place of primary use as defined and determined under 4 U.S.C. secs. 116 to 126}.~~

Section 3. KRS 139.110 is amended to read as follows:

- (1) "Retailer" ~~means~~*includes*:
- (a) Every *person engaged in the business of making retail sales*~~{seller who makes any "retail sale" or "sales at retail,"} or *furnishing*{who furnishes} any services{and facilities} included in *Section 7 of this Act*[KRS 139.100, and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others];~~

- (b) Every person engaged in the business~~[of making sales for storage, use or other consumption or in the business]~~ of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption;
 - (c) Every person making more than two (2) retail sales during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy;
 - (d) Any person conducting a race meeting under the provision of KRS Chapter 230, with respect to horses which are claimed during ~~the[such]~~ meeting.
- (2) When the cabinet determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of ~~the[such]~~ dealers, distributors, supervisors or employers, the cabinet may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.

Section 4. KRS 139.120 is amended to read as follows:

- (1) "Sale" means, the furnishing of any services~~[and facilities]~~ included in ***Section 7 of this Act and***~~[KRS 139.100 or,]~~ any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration, and includes:
- (a)~~[(1)]~~ The producing, fabricating, processing, printing or imprinting of tangible personal property for a consideration for ***purchasers***~~[consumers]~~ who furnish, either directly or indirectly, the materials used in the producing, fabricating, processing, printing or imprinting;
 - (b)~~[(2)]~~ A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price;
 - (c)~~[(3)]~~ A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated or printed to the special order of the ***purchaser***~~[customer]~~.
- (2) ***"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental shall include future options to purchase the property or extend the terms of the agreement and agreements covering trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. sec. 7701(h)(1). "Lease or rental" shall not include:***
- (a) ***A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;***
 - (b) ***A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of the required payments and payment of an option price that does not exceed the greater of one hundred dollars (\$100) or one percent (1%) of the total required payments; and***
 - (c) ***Providing tangible personal property and an operator for the tangible personal property for a fixed or indeterminate period of time. To qualify for this exclusion, the operator must be necessary for the equipment to perform as designed, and the operator must do more than maintain, inspect, or setup the tangible personal property; and***

These definitions shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law.

Section 5. KRS 139.140 is amended to read as follows:

"Seller" includes every person engaged in the business of selling tangible personal property or services of a kind, the gross receipts from the retail sale of which are required to be included in the measure of the sales tax, ***and every person engaged in making sales for resale.***

Section 6. KRS 139.160 is amended to read as follows:

- (1) "Tangible personal property" means personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses, ***regardless of the method of delivery***, and includes natural, artificial and mixed gas, electricity, water, ***steam, and prewritten computer software.***
- (2) ***"Prewritten computer software" means:***

- (a) *Computer software, including prewritten upgrades, that are not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two (2) or more "prewritten computer software" programs or portions thereof does not cause the combination to be other than "prewritten computer software."*
- (b) *Software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the original purchaser.*
- (c) *Any portion of prewritten computer software that is modified or enhanced in any manner, where the modification or enhancement is designed and developed to the specifications of a specific purchaser. When a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of the modifications or enhancements the person actually made. In the case of modified or enhanced prewritten software, if there is a reasonable, separately stated charge on an invoice or other statement of the price to the purchaser for the modification or enhancement, then the modification or enhancement shall not constitute "prewritten computer software."*~~[and prepaid calling arrangements. For the purposes of this chapter, the term "prepaid calling arrangements" means any right to purchase communications service, which must be paid in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed. "Prepaid calling arrangements" includes, but is not limited to, prepaid cards and prepaid accounts which are decremented as calls take place.]~~

Section 7. KRS 139.200 is amended to read as follows:

~~[For the privilege of making "retail sales" or "sales at retail,"]~~ A tax is hereby imposed upon all retailers at the rate of six percent (6%) of the gross receipts~~[of any retailer]~~ derived from:

- (1) ~~["]~~ Retail sales, *regardless of the method of delivery,*~~[" or "sales at retail"]~~ made within this Commonwealth; *and*
- (2) *The furnishing of the following:*
 - (a) *The rental of any room or rooms, lodgings, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply to rooms, lodgings, or accommodations supplied for a continuous period of thirty (30) days or more to a person;*
 - (b) *Sewer services;*
 - (c) *The sale of admissions except those taxed under KRS 138.480;*
 - (d) *Communications service to a service address in this state, other than mobile telecommunications services as defined in Section 8 of this Act, regardless of where those services are billed or paid, when the communications service:*
 - 1. *Originates and terminates in this state;*
 - 2. *Originates in this state; or*
 - 3. *Terminates in this state; and*
 - (e) *Mobile telecommunications services as defined in Section 8 of this Act, to a purchaser whose place of primary use is in this state*~~[on and after July 1, 1990].~~

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

As used in Sections 7, 23, and 29 of this Act:

- (1) *"Air-ground radiotelephone service" means a radio service, as defined in 47 C.F.R. 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.*
- (2) *"Call-by-call basis" means any method of charging for communications services where the price is measured by individual calls.*
- (3) *"Communications channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.*

- (4) *"Communications service" means the provision, transmission, conveyance, or routing, for consideration, of voice, data, video, or any other information signals of the purchaser's choosing to a point or between or among points specified by the purchaser, by or through any electronic, radio, light, fiber optic, or similar medium or method now in existence or later devised.*
- (a) *"Communications service" includes but is not limited to local telephone services, long-distance telephone services, telegraph services, teletypewriter services, prepaid calling services, postpaid calling services, private communication services involving a direct channel specifically dedicated to a customer's use between specific points, channel services involving a path of communications between two (2) or more points, data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method, caller ID services, voice mail and other electronic messaging services, mobile telecommunications service, and Internet telephony involving telephone service in which messages originate or terminate over a public switched telephone network but are transmitted, in part, using transmission control protocol, Internet protocol, or other similar means.*
- (b) *"Communications service" does not include any of the following if the charges are separately itemized on the bill provided to the purchaser:*
- 1. Information services;*
 - 2. Internet access;*
 - 3. Installation, reinstallation, or maintenance of wiring or equipment on a customer's premises. This exclusion does not apply to any charge attributable to the connection, movement, change, or termination of a communications service;*
 - 4. The sale of directory and other advertising and listing services;*
 - 5. The sale of one-way paging services;*
 - 6. Billing and collection services provided to another communications service provider; and*
 - 7. Cable service, satellite broadcast, satellite master antenna television, and wireless cable service, including direct-to-home satellite service as defined in Section 602 of the federal Telecommunications Act of 1996.*
- (5) *"Customer" means the person or entity that contracts with the seller of communications services. If the end user of communications services is not the contracting party, the end user of the communications service is the customer of the communications service, but only as it applies to the sourcing of the sale of communications services as provided in Section 23 of this Act. "Customer" does not include a reseller of communications service or a serving carrier providing mobile telecommunications service under an agreement to serve the customer outside the home service provider's licensed service area.*
- (6) *"Customer channel termination point" means the location where the customer or other purchaser either inputs or receives communications.*
- (7) *"End user" means the person who utilized the communications service. In the case of an entity, "end user" means the individual who utilized the service on behalf of the entity.*
- (8) *"Home service provider" means the same as provided in 4 U.S.C. sec. 124(5).*
- (9) *"Mobile telecommunications service" means the same as provided in 4 U.S.C. sec. 124(7).*
- (10) *"Place of primary use" means the street address where the customer's or other purchaser's use of the communications service primarily occurs, and that is the residential street address or the primary business street address of the customer or other purchaser. In the case of mobile telecommunications service, "place of primary use" shall be within the licensed service area of the home service provider.*
- (11) *"Post-paid calling service" means a communications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number not associated with the origination or termination of the communications service. A post-paid calling service includes a communication service that would be a prepaid service except that it is not exclusively a communications service.*
- (12) *"Prepaid calling service" means the right to access exclusively communications services, which are paid for in advance and which enable the origination of calls using an access number or authorization code,*

whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

- (13) *"Private communication service" means a communications service that entitles the customer or other purchaser to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which the channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of a channel or channels.*
- (14) (a) *"Service address" means the location of communications equipment to which a customer's or other purchaser's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid.*
- (b) *If the location of the communications equipment is not known, "service address" means the origination point of the signal of the communications services first identified by either the seller's communications system or in information received by the seller from its service provider, where the system used to transport the signals is not that of the seller.*
- (c) *If the location cannot be determined according to the guidelines set forth in paragraphs (a) and (b) of this subsection, "service address" means the location of the customer's or other purchaser's place of primary use.*

Section 9. KRS 139.210 is amended to read as follows:

- (1) ~~The taxes herein imposed shall be collected by the retailer from the consumer.~~
- (2) Except as provided in subsection (2) ~~(3)~~ of this section, the tax *shall be* required to be collected by the retailer from the *purchaser. If the taxable goods are bundled with services and are sold as a single package for one (1) price, the tax required to be collected by the retailer from the purchaser shall be computed on the entire amount. The tax* ~~consumer~~ shall be displayed separately from the sales price, the price advertised in the premises, the marked price, or other price on the sales receipt or other proof of sales.
- (2) ~~(3)~~ The cabinet may relieve certain retailers from the provisions of subsection (1) ~~(2)~~ of this section of separate display of the tax when the circumstances of the retailer make compliance impracticable. *If the retailer establishes to the satisfaction of the cabinet that the sales tax has been added to the total amount of the sales price and has not been absorbed by the retailer, the amount of the sales price shall be the amount received exclusive of the tax imposed.*
- (3) ~~(4)~~ The taxes collected under this section shall be deemed to be held in trust by the retailer for and on account of the Commonwealth of Kentucky.
- (4) ~~(5)~~ The taxes to be collected under this section shall constitute a debt of the retailer to the Commonwealth.

Section 10. KRS 139.220 is amended to read as follows:

It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax levied by KRS 139.200 *or required to be collected under Section 17 of this Act* or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added it or any part thereof will be refunded.

Section 11. KRS 139.230 is amended to read as follows:

~~The cabinet is authorized to prepare suitable brackets of prices for the collection of the taxes imposed by this chapter in order.~~ To eliminate fractions of one cent (\$0.01), and *to insure* ~~so~~ that the aggregate collections of taxes by a retailer, so far as may be practicable, shall be equal to six percent (6%) of gross receipts or sales price, as the case may be, *the tax shall be computed by applying the six percent (6%) rate to the sales price carried to the third decimal place and rounded to the nearest cent by eliminating any fraction less than one-half of one cent (\$0.005) and increasing any fraction of one-half of one cent (\$0.005) or over to the next higher cent.*

Section 12. KRS 139.240 is amended to read as follows:

- (1) Every person presently engaged or desiring to engage in or conduct business as a *retailer or* seller within this state shall file with the cabinet an application for a permit for each place of business.
- (2) Every application for a permit shall:

- (a) Be made upon a form prescribed by the cabinet;
 - (b) Set forth the name under which the applicant transacts or intends to transact business and the location of ~~the~~^{his} place or places of business; *and*
 - (c) Set forth~~such~~ other information as the cabinet may require.
- (3) The application shall be signed by:
- (a) The owner, if he or she is a natural person;
 - (b) A member or partner, if the entity is an association, limited liability company, limited liability partnership, or partnership;
 - (c) An executive officer, if the entity is a corporation, or some person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of his or her authority; or
 - (d) A licensed certified public accountant, or an attorney licensed to practice law in the Commonwealth of Kentucky, specifically authorized by and acting on behalf of an owner, an association, a partnership, a limited liability company, a limited liability partnership, a corporation, or other business entity.
- (4) *A written signature shall not be required if the applicant registers electronically.*

Section 13. KRS 139.260 is amended to read as follows:

For the purpose of the proper administration of this chapter and to prevent evasion of the *duty to collect the taxes imposed by Section 7 of this Act and KRS 139.310*,~~[sales tax]~~ it shall be presumed that all gross receipts *and all tangible personal property sold by any person for delivery in this state* are subject to the tax until the contrary is established. The burden of proving *the contrary*~~[that a sale of tangible personal property is not a "retail sale" or "sale at retail"]~~ is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is either:

- (1) Purchased for resale according to the provisions of KRS 139.270~~[or 139.410]~~;
- (2) Purchased through a properly executed certificate of exemption in accordance with *Section 14 of this Act*~~[KRS 139.490]; [or]~~
- (3) Purchased according to regulations of the Revenue Cabinet governing a direct pay authorization; *or*
- (4) *Purchased under a form issued pursuant to Section 24 or 25 of this Act.*

Section 14. KRS 139.270 is amended to read as follows:

- (1) The resale certificate *or certificate of exemption* relieves the *retailer or* seller from the burden of proof only if taken in good faith from a person who,~~[-~~
 - ~~(a) — Is engaged in the business of selling tangible personal property;~~
 - ~~(b) — Holds the permit provided for in KRS 139.250; and~~
 - ~~(c) —] at the time of purchasing the tangible personal property; [-]~~
 - (a) Indicates *an*^{his} intention to sell it in the regular course of business by executing the resale certificate; *or*
 - (b) *Indicates that the property purchased will be used in an exempt manner by executing a certificate of exemption.*

This relief from liability does not apply to a retailer or seller who fraudulently fails to collect the tax or solicits purchasers to participate in the unlawful claiming of an exemption.

- (2) "Good faith" shall be demonstrated by the *retailer or* seller if ~~the retailer or seller~~^{he}:
 - (a) Accepts a properly completed resale certificate *or certificate of exemption*; ~~and~~^[-]
 - (b) Maintains a file of ~~the~~^{such} certificate in accordance with KRS 139.720~~[- and~~
 - ~~(c) — Determines that the kind of property being sold to the purchaser is normally offered for resale in the type business operated by the purchaser and that the property, if delivered by the seller, is delivered to~~

~~the purchaser's business address. The seller is also relieved if the purchaser is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose].~~

- (3) If the cabinet later finds that the **retailer or** seller exercised good faith according to the provisions of subsection (2) of this section but that the purchaser used the property in a manner that would not have qualified for resale status **or the purchaser issued a certificate of exemption and used the property in some other manner or for some other purpose**, the cabinet shall hold the purchaser liable for the remittance of the tax and may apply penalties provided in KRS 139.990.

Section 15. KRS 139.280 is amended to read as follows:

- (1) The **resale** certificate shall:
- (a) Be signed by and bear the name and address of the purchaser;
 - (b) Indicate the number of the permit issued to the purchaser;
 - (c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.
- (2) The certificate shall be substantially in ~~a such~~ form as the cabinet may prescribe.
- (3) **A signature shall not be required if the purchaser provides the retailer with an electronic resale certificate.**

Section 16. KRS 139.290 is amended to read as follows:

- (1) If a **retailer or seller**~~[purchaser]~~ who gives a **resale** certificate makes any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business, the use shall be taxable to the **retailer or seller**~~[purchaser]~~ as of the time the property is first used by **the retailer or seller**~~[him]~~, and the sales price of the property to **the retailer or seller**~~[him]~~ shall be deemed the measure of the tax.~~[Only when there is an unsatisfied use tax liability on this basis shall the seller be liable for sales tax with respect to the sale of the property to the purchaser.]~~
- (2) If the sole use of the property **by the retailer** other than retention, demonstration or display in the regular course of business is the rental of the property while holding it for sale, the **retailer**~~[purchaser]~~ shall include in ~~his~~ gross receipts the amount of the rental charged rather than the sales price of the property~~[to him]~~.
- (3) **If a retailer sells tangible personal property before making any use thereof, other than retention, demonstration, or display while holding it for sale in the regular course of business, the retailer may take a deduction of the purchase price of the property if, with respect to its purchase, the retailer has reimbursed the vendor for the sales tax or has paid the use tax. If a deduction is taken by the retailer, no refund or credit shall be allowed to the vendor with respect to the sale of that property.**

Section 17. KRS 139.340 is amended to read as follows:

- (1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state ~~shall and making sales of tangible personal property for storage, use or other consumption in this state, shall, at the time of making the sales, or, if the storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable,~~ collect the tax **imposed by**~~levied under~~ KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the cabinet. The taxes collected or required to be collected by the retailer under this section shall be deemed to be held in trust for and on account of the Commonwealth of Kentucky.
- (2) "Retailer engaged in business in this state" as used in this chapter includes any of the following:
- (a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business. Property owned by a person who has contracted with a printer for printing, which consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced, and which is located at the premises of the printer, shall not be deemed to be an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business maintained, occupied, or used by the person;

- (b) Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property. An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser, or solicitor for the person;
- (c) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media, or other facility or service located in this state;
- (d) Any retailer deriving receipts from the lease or rental of tangible personal property situated in this state; or
- (e) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, systematic basis if the retailer benefits from an agent operating in this state under the authority of the retailer to repair or service tangible personal property sold by the retailer.

Section 18. KRS 139.350 is amended to read as follows:

- (1) A retailer ~~may deduct as a bad debt the amount~~~~is relieved from liability to collect use tax which shall become due and payable subsequent to June 30, 1960, insofar as the measure of the tax is represented by accounts which have been~~ found to be worthless and charged off for income tax purposes ***provided the retailer is reporting and remitting the tax on the accrual basis. The retailer may take the deduction on the return for the period during which the bad debt is written off as uncollectable in the retailer's books and records and is eligible to be charged off for income tax purposes. For purposes of this section, "charged off for income tax purposes" includes the charging off of unpaid balances due on accounts determined to be uncollectable, or declaring as uncollectable the unpaid balance due on accounts if a retailer is not required to file federal income tax returns.***
- (2) ***In determining the basis for calculating bad debt recovery, the definition of "bad debt" as provided in 26 U.S.C. sec. 166 shall be used, except "bad debt" shall not include financing charges or interest, sales or use taxes charged on the purchase price, uncollectable amounts on property that remains in the possession of the retailer until the full purchase price is paid, expenses incurred in attempting to collect any debt, or repossessed property.***
- (3) ***Notwithstanding KRS 131.183, any deduction taken for bad debts shall not include interest.***
- (4) ***A retailer may obtain a refund of tax on the amount of bad debt that exceeds the amount of taxable sales for the period during which the bad debt is written off. Notwithstanding KRS 131.183, the refund claim must be made within four (4) years from the due date of the return on which the bad debt could first be claimed***~~[If the retailer has previously paid the amount of the tax, he may, under rules and regulations prescribed by the cabinet, take as a deduction the amount found worthless and charged off for income tax purposes].~~
- (5) If any ~~bad debt[such]~~ accounts are thereafter in whole or in part collected by the retailer, the amount~~[so]~~ collected shall be included in the~~[first]~~ return filed ***for the period in which the***~~[after such]~~ collection is made and the amount of the tax ~~due shall be~~~~[thereon]~~ paid with the return.
- (6) ***If a retailer's filing responsibilities have been assumed by a certified service provider as provided by KRS 139.795, the certified service provider may claim, on behalf of the retailer, any bad debt allowance provided by this section. The certified service provider shall credit or refund the full amount of any bad debt allowance or refund received to the retailer.***
- (7) ***For purposes of computing a bad debt deduction or reporting a payment received on a previously claimed bad debt, any payments made on a debt or account shall be applied first to the price of the property or service and the sales tax on it, proportionally, and secondly to interest, service charges, and any other charges.***

Section 19. KRS 139.380 is amended to read as follows:

The tax required to be collected by the retailer under KRS 139.340 from the purchaser shall be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check or other

proof of sales. ***If taxable goods are bundled with services and are sold as a single package for one (1) price, the tax required to be collected by the retailer from the purchaser shall be computed on the entire amount and shall be displayed separately from the list price, the price advertised on the premises, the marked price, or other price on the sales check or other proof of sales.***

Section 20. 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 **retailer** ~~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 ~~retailer[seller]~~ and the ~~retailer[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 KRS 139.170(3). 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 ~~retailer's[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 ~~purchaser[buyer]~~ or ~~retailer[seller]~~ or an agent or representative of the ~~purchaser[buyer]~~ or ~~retailer[seller]~~, or whether the F.O.B. is ~~retailer's[seller's]~~ shipping point or ~~purchaser's[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 ~~retailer[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;
- (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 ~~retailer's[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 ~~purchaser[buyer]~~ or ~~retailer[seller]~~ or an agent or representative of the ~~purchaser[buyer]~~ or ~~retailer[seller]~~, or whether the F.O.B. is ~~the retailer's[seller's]~~ shipping point or ~~the purchaser's[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 ~~purchaser[customer]~~ specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.
 - (b) The ~~retailer[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;~~and~~
- (16) Gross receipts from the sale of unenriched or enriched uranium purchased for ultimate storage, use, or other consumption outside this state and delivered to a common carrier in this state for delivery outside this state, regardless of whether the carrier is selected by the ~~purchaser[buyer]~~ or ~~retailer[seller]~~, or is an agent or representative of the ~~purchaser[buyer]~~ or ~~retailer[seller]~~, or whether the F.O.B. is ~~the retailer's[seller's]~~ shipping point or ~~purchaser's[buyer's]~~ destination;
- (17) *Gross receipts from the sale of property returned by a purchaser when the full sales price is refunded either in cash or credit. This exclusion shall not apply if the purchaser, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;*
- (18) *Gross receipts from the sales of gasoline and special fuels subject to tax under KRS Chapter 138;*
- (19) *The amount of any tax imposed by the United States upon or with respect to retail sales, whether imposed on the retailer or the consumer, not including any manufacturer's excise or import duty;*
- (20) *Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which is registered for use on the public highways and upon which any applicable tax levied by KRS 138.460 has been paid;*
- (21) *Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and trailer as defined in KRS 189.010(17); and*

- (22) *Gross receipts from the sale of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale under the provisions of KRS Chapter 243.*

Section 21. KRS 139.472 is amended to read as follows:

- (1) *Notwithstanding any other provisions of this chapter, the taxes imposed by this chapter shall not apply to the sale or purchase of*~~["Prescription medicine" shall mean and include:]~~:
- (a) *A drug purchased for the treatment of a human being for which a prescription is required by state or federal law, whether the drug is dispensed by a licensed pharmacist, administered by a physician or other health care provider, or distributed as a free sample to or from a physician's office;*~~[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. 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~~
 - ~~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, including high pressure cylinders, cryogenic tanks, or oxygen concentrators, tubes, masks, and similar items required for the delivery of oxygen to the patient when purchased by an individual*~~[the patient]~~ *for private use;*
 - (c) *Insulin and diabetic supplies, including hypodermic syringes, needles, and sugar (urine and blood) testing materials purchased by an individual for private use;*
 - (d) *Colostomy, urostomy, or ileostomy supplies purchased by an individual for private use;*
 - (e) *Prosthetic devices purchased by any healthcare provider for use in the treatment of a specific individual or purchased by an individual as prescribed by a person authorized under the laws of the Commonwealth to issue prescriptions;*
 - (f) *Prosthetic devices that are individually designed or created for an individual regardless of the purchaser; and*
 - (g) *Crutches, walkers, wheelchairs, wheelchair lifting devices, and wheelchair repair and replacement parts purchased by an individual for private use.*
- (2) *Except as specifically provided in subsection (1) of this section, supplies or equipment used to deliver a drug to a patient are taxable*~~["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) *As used in this section:*
- (a) *"Drug" means a compound, substance, or preparation and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages as defined in Section 22 of this Act, that is recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or a supplement to any of them, and is:*
 - 1. *Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans; or*
 - 2. *Intended to affect the structure or any function of the human body.*

- (b) *"Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a person authorized under the laws of the Commonwealth to prescribe a drug.*
- (c) 1. *"Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the body to:*
- Artificially replace a missing portion of the body;*
 - Prevent or correct a physical deformity or malfunction; or*
 - Support a weak or deformed portion of the body.*
2. *"Prosthetic device" shall not include any of the following:*
- Corrective eyeglasses;*
 - Contact lenses; or*
 - Dental prosthesis*~~[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 22. KRS 139.485 is amended to read as follows:

- Except as otherwise provided, 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 food *and food ingredients* for human consumption.
- The term "food" *and food ingredients* as used in subsection (1) of this section *means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" shall not*~~[shall]~~ include:
 - Alcoholic beverages*~~[Cereals and cereal products];~~
 - Tobacco*~~[Milk and milk products];~~
 - Candy*~~[Meat and meat products];~~
 - Dietary supplements*~~[Fish and fish products];~~
 - Soft drinks; and*~~[Eggs and egg products;]~~
 - Prepared food*~~[Vegetables and vegetable products;~~
 - ~~Fruit and fruit products, including fruit juices;~~
 - ~~Sugar, sugar products and sugar substitutes; other than candy, confectionery and chewing gum;~~
 - ~~Coffee and coffee substitutes;~~
 - ~~Tea, cocoa and cocoa products; other than candy and confectionery;~~
 - ~~Spices, condiments, and salt;~~
 - ~~Oleomargarine].~~
- For purposes of this section*~~[The term "food" as used in subsection (1) of this section shall not include]:~~
 - "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent (0.5%) or more of alcohol by volume*~~[Candy, confectionery and chewing gum];~~
 - "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco*~~[Spirituuous, malt, or vinous liquors];~~
 - "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy shall not include:*

1. *Any preparation containing flour; or*
 2. *Any item requiring refrigeration*~~[Cocktail mixes];~~
- (d) *"Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:*
1. *Contains one (1) or more of the following dietary ingredients:*
 - a. *A vitamin;*
 - b. *A mineral;*
 - c. *An herb or other botanical;*
 - d. *An amino acid;*
 - e. *A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or*
 - f. *A concentrate, metabolite, constituent, extract, or combination of any ingredient described above;*
 2. *Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form or, if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and*
 3. *Is required to be labeled as a dietary supplement, identifiable by the "Supplement facts" box found on the label as required pursuant to 21 C.F.R. 101.36*~~[Soft drinks, sodas, and similar beverages];~~
- (e) *"Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than fifty percent (50%) of vegetable or fruit juice by volume*~~[Medicines, tonics, vitamins, and other dietary supplements];~~
- (f) *"Food sold through vending machines" means food dispensed from a machine or other mechanical device that accepts payment*~~[Water, mineral water, carbonated water and ice];~~
- (g) *"Prepared food" means:*
1. *Food sold in a heated state or heated by the retailer;*
 2. *Two (2) or more food ingredients mixed or combined by the retailer for sale as a single item except food that is only cut, repackaged, or pasteurized by the retailer, eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, Part 401.11 of the FDA Food Code so as to prevent food borne illnesses; or*
 3. *Food sold with eating utensils provided by the retailer, including plates, knives, forks, spoons, glasses, cups, napkins, or straws.*
- (h) *Notwithstanding paragraph (g) of this subsection, "prepared food" shall not include the following items if sold without eating utensils provided by the seller:*
1. *Food sold by a seller whose proper primary North American Industry Classification System classification is manufacturing in sector 311, except subsector 3118; or*
 2. *Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danishes, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.*
- (4) *Notwithstanding the provisions of subsection (1) of this section, "food and food ingredients" sold through vending machines, nonmechanical self-service vending systems, or by street vendors shall be subject to the tax imposed by this chapter*~~[Pet foods];~~
- (h) ~~Meals served on or off the premises of the retailer;~~
- (i) ~~Food furnished, prepared, or served for consumption at tables, chairs, or counters, or from trays, glasses, dishes, or other tableware provided by the retailer;~~

- ~~(j) Food sold by retailers who ordinarily sell for consumption on or near the premises of the retailer even though the food is sold on a "take out" or "to go" order and is actually bagged, packaged, or wrapped and taken from the premises of the retailer;~~
- ~~(k) Food sold through vending machines;~~
- ~~(l) Food sold by street vendors; and~~
- ~~(m) Food sold through nonmechanical self service vending systems}.~~

SECTION 23. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

- (1) *For purposes of the retailer's obligation to pay or collect and remit the taxes imposed by Section 7 of this Act and 139.310, the retailer shall source the retail sale, excluding sales of communications service as follows:*
 - (a) *Over the counter. When the purchaser receives tangible personal property or service at a business location of the retailer, the sale is sourced to that business location.*
 - (b) *Delivery to a specified address. When a purchaser or purchaser's donee receives tangible personal property or service at a location specified by the purchaser, the sale is sourced to that location.*
 - (c) *Delivery address unknown. When the retailer of a product does not know the address where the tangible personal property or service is received, the sale is sourced to the first address listed in this paragraph that is known to the retailer:*
 - 1. *The address of the purchaser;*
 - 2. *The billing address of the purchaser; or*
 - 3. *The address from which the tangible personal property was shipped; from which the computer software was delivered electronically or was first available for transmission by the retailer; or from which the service was provided.*
- (2) *The retailer shall source communications services as follows:*
 - (a) *A sale of mobile telecommunications services, other than air-ground radiotelephone service and prepaid calling service, shall be sourced to the customer's or other purchaser's place of primary use.*
 - (b) *A sale of post-paid calling service shall be sourced to the origination point of the telecommunications signal as first identified by either the retailer's telecommunications system or information received by the retailer from its service provider, where the system used to transport the signals is not that of the retailer.*
 - (c) *A sale of prepaid calling service shall be sourced according to the provisions of subsection (1) of this section if the sale is of a prepaid calling service that is also a mobile telecommunications service and the retailer does not know the address where the service is received. The sale shall be sourced to the first of the following that is known by the retailer:*
 - 1. *The address of the customer available from the business records of the retailer;*
 - 2. *The billing address of the customer;*
 - 3. *The address from which the service was provided; or*
 - 4. *The location associated with the mobile telephone number.*
 - (d) *A sale of a private communication service shall be sourced as follows:*
 - 1. *Service for a separate charge related to a customer channel termination point shall be sourced to each level of jurisdiction in which the customer channel termination point is located.*
 - 2. *Service where all customer termination points are located entirely within one (1) jurisdiction or levels of jurisdiction is sourced in the jurisdiction in which the customer channel termination points are located.*
 - 3. *Service for segments of a channel between two (2) customer channel termination points located in different jurisdictions and which segments of channel are separately charged shall*

be sourced fifty percent (50%) in each level of jurisdiction in which the customer channel termination points are located.

4. *Service for segments of a channel located in more than one (1) jurisdiction or levels of jurisdiction and which segments are separately billed shall be sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in the jurisdiction by the total number of customer channel termination points.*
- (e) *A sale of other communications services sold on a basis other than a call-by-call basis shall be sourced to the customer's or other purchaser's place of primary use.*
- (3) *Nothing included in subsections (1) or (2) of this section shall affect the obligation of a purchaser to remit use tax pursuant to KRS 139.310.*

SECTION 24. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of this chapter to the contrary, a business purchaser that is not a holder of a direct pay permit that knows at the time of the purchase of a digital good, computer software delivered electronically, or a service that is a digital good that the item purchased will be concurrently available for use in more than one (1) jurisdiction shall deliver to the retailer, in conjunction with the purchase, a Multiple Points of Use (MPU) Exemption Form disclosing this fact.

- (1) *Upon receipt of the MPU Exemption Form, the retailer shall be relieved of all obligation to collect, pay, or remit the applicable tax and the purchaser shall be obligated to collect, pay, or remit the applicable tax on a direct pay basis.*
- (2) *A purchaser delivering the MPU Exemption Form may use any reasonable and consistent uniform method of apportionment that is supported by the purchaser's business records as they exist at the time of the consummation of the sale.*
- (3) *The MPU Exemption Form shall remain in effect for all future sales by the retailer to the purchaser, except as to a subsequent sale that has a specific apportionment that is governed by subsection (2) of this section and the facts existing at the time of the sale, until it is revoked in writing.*
- (4) *A holder of a direct pay permit shall not be required to deliver a MPU Exemption Form to the retailer. A direct-pay permit holder shall follow the provisions of subsection (2) of this section in apportioning the tax due on a digital good or service or computer software delivered electronically that will be concurrently available for use in more than one (1) jurisdiction.*

SECTION 25. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding any other provision of this chapter, a purchaser of direct mail that is not a holder of a direct pay permit shall provide to the retailer in conjunction with the purchase either a Direct-Mail Form or information to show the jurisdictions in which the direct-mail is delivered to recipients.*
 - (a) *Upon receipt of the Direct-Mail Form, the retailer shall be relieved of all obligations to collect, pay, or remit the applicable tax and the purchaser shall pay or remit the applicable tax on a direct-pay basis. A Direct-Mail Form shall remain in effect for all future sales of direct mail by the retailer to the purchaser until it is revoked in writing.*
 - (b) *Upon receipt of information from the purchaser showing the jurisdictions to which the direct mail is delivered to recipients, the retailer shall collect the tax according to the delivery information provided by the purchaser. In the absence of bad faith, the retailer is relieved of any further obligation to collect the tax on any transaction where the retailer has collected the tax pursuant to the delivery information provided by the purchaser.*
- (2) *If the purchaser of direct mail does not have a direct-pay permit and does not provide the retailer with either a Direct-Mail Form or delivery information, as required by subsection (1) of this section, the retailer shall collect the tax according to the address from where the direct mail was shipped. Nothing in this subsection shall limit a purchaser's obligation for sales or use tax to any state in which the direct mail is delivered.*
- (3) *If a purchaser of direct mail provides the retailer with documentation of direct-pay authority, the purchaser shall not be required to provide a Direct-Mail Form or delivery information to the retailer.*

- (4) ***"Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail retailer for inclusion in the package containing the printed material. "Direct-mail" does not include multiple items of printed material delivered to a single address.***

Section 26. KRS 139.550 is amended to read as follows:

- (1) On or before the twentieth day of the month following each calendar month, a return for the preceding month shall be filed with the cabinet in ~~a [such] form [as]~~ the cabinet may prescribe.
- (2) For purposes of the sales tax, a return shall be filed by every ***retailer or*** seller. For purposes of the use tax, a return shall be filed by every retailer engaged in business in the state and by every person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax. ***If a retailer's responsibilities have been assumed by a certified service provider as defined by KRS 139.795, the certified service provider shall file the return.***
- (3) Returns shall be signed by the person required to file the return or by ~~a [his]~~ duly authorized agent but need not be verified by oath.
- (4) Persons not regularly engaged in selling at retail and not having a permanent place of business, but who are temporarily engaged in selling from trucks, portable roadside stands, concessionaires at fairs, circuses, carnivals, and the like, shall report and remit the tax on a nonpermit basis, under ~~[such]~~ rules as the cabinet shall provide for the efficient collection of the sales tax on ~~[such]~~ sales.
- (5) ***The return shall show the amount of the taxes for the period covered by the return and other information the cabinet deems necessary for the proper administration of this chapter.***

Section 27. KRS 139.735 is amended to read as follows:

- (1) The Revenue Cabinet shall not promulgate any administrative regulation or policy either written or unwritten whose provisions are more stringent than the provisions of KRS 139.270~~[-139.410, 139.490,]~~ and 103 KAR 31.030 regarding the good faith provisions for resale certificates, exemption certificates and direct pay authorizations.
- (2) It shall be mandatory upon the Revenue Cabinet during any audit process to honor resale certificates, exemption certificates and direct pay authorizations when executed according to the good faith provisions defined and described in KRS 139.270~~[-139.410, 139.490,]~~ and 103 KAR 31.030.

Section 28. KRS 139.770 is amended to read as follows:

- (1) The taxes paid pursuant to the provisions of this chapter shall be refunded or credited in the manner provided in KRS 134.580.
- (2) A claim for refund or credit shall be made on a form prescribed by the cabinet and shall contain such information as the cabinet may require.
- (3) No taxpayer ***or certified service provider as provided by KRS 139.795*** shall be entitled to a refund or credit of the taxes paid pursuant to the provisions of this chapter where the taxes have been collected from a purchaser as provided by KRS 139.210 and 139.340, unless the amount of taxes collected from the purchaser are refunded to ***the purchaser [him]*** by the taxpayer ***or certified service provider as provided by KRS 139.795*** who paid the taxes to the State Treasury.
- (4) Where applicable, the amount of any claim for refund or credit shall be reduced by the amount deducted by the taxpayer ***or certified service provider as provided by KRS 139.795*** pursuant to KRS 139.570 at the time the taxes were paid to the State Treasury.

Section 29. KRS 139.775 is amended to read as follows:

- (1) As it relates to the taxation under this chapter of mobile telecommunications services as defined in ***Section 8 of this Act***, ~~[4 U.S.C. sec. 124:~~
- ~~(4) —~~ the provisions of 4 U.S.C. secs. 116 to 126 are hereby adopted and incorporated by reference.

- (2) If a *communications services or mobile telecommunications services* customer believes that a tax, charge, fee, or assignment of place of primary use or taxing jurisdiction on a bill is incorrect, the customer shall, ***within four (4) years of the date of the bill***, notify the home service provider about the alleged error, in writing. This notification shall include the street address for the customer's place of primary use, the account name and number for which the customer seeks a correction, a description of the alleged error, and any other information that the home service provider reasonably requires. Within sixty (60) days of receiving the customer's notification, the home service provider shall either correct the error and refund or credit all taxes, charges, and fees incorrectly charged to the customer ~~[within four (4) years of the customer's notification]~~, or explain to the customer in writing ~~why~~^{how} the bill was correct and why a refund or credit will not be made.
- (3) A customer shall not have a cause of action against a home service provider for any erroneously collected taxes, charges, or fees until the customer has exhausted the procedure set forth in subsection (2) of this section.
- (4) ***Nothing in this section shall extend any person's time to seek a refund of sales or use taxes collected or remitted to the state beyond the provisions of KRS 134.580.***

SECTION 30. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

- (1) ***For all sales and use tax transactions where the purchaser believes that tax has been charged in error, a cause of action against the retailer for the over-collected sales or use taxes does not accrue until the purchaser has provided notice to the retailer and the retailer has had sixty (60) days to respond. The notice to the retailer shall contain the information necessary to determine the validity of the inquiry.***
- (2) ***In connection with a purchaser's inquiry to a retailer regarding over-collected sales or use taxes, a retailer shall be presumed to have a reasonable business practice, if in the collection of the sales or use tax the retailer:***
 - (a) ***Uses either a certified service provider, certified automated system, or a proprietary system as provided by KRS 139.795; and***
 - (b) ***Has remitted all taxes collected less any deductions, credits or collection allowances.***
- (3) ***Nothing in this section shall extend any person's time to seek a refund of sales or use taxes collected or remitted to the state beyond the provisions of KRS 134.580.***

Section 31. KRS 139.785 is amended 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 KRS 139.780 to 139.795. 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. ***Notwithstanding the provisions of KRS Chapter 13A, the Cabinet may issue educational bulletins to the extent necessary to enhance the understanding of and compliance with terms of the agreement.***
- (3) The secretary of the cabinet or the secretary's designee, ***the state budget director or the director's designee, and two (2) legislators are*** ~~is~~ authorized to represent this state before the other states that are signatories to the agreement. ***One (1) member of the Senate shall be appointed by the President of the Senate, and one (1) member of the House of Representatives shall be appointed by the Speaker of the House of Representatives.***

Section 32. KRS 139.990 is amended to read as follows:

- (1) Any person who executes:
 - (a) A resale certificate for property in accordance with KRS 139.270~~[or 139.410]~~, knowing at the time of purchase that such property is not to be resold by him in the regular course of business, for the purpose of evading the tax imposed under this chapter;
 - (b) An exemption certificate for property in accordance with ***Section 14 of this Act***~~[KRS 139.490]~~, knowing at the time of the purchase that he is not engaged in an occupation that would entitle him to exemption status or any person who does not intend to use the property in the prescribed manner; or

- (c) A direct pay authorization for property not in accordance with 103 KAR 31.030;
- (d) ***A MPU exemption form or Direct Mail Form issued not in accordance with the provisions of Sections 24 and 25 of this Act.***

shall be guilty of a Class B misdemeanor.

- (2) A person who engages in business as a seller in this state without a permit or permits as required by this chapter or after a permit has been suspended, and each officer of any corporation which is so engaged in business, shall be guilty of a Class B misdemeanor.
- (3) Any person who violates any of the provisions of KRS 139.220, ~~139.370,~~ 139.380, **or** 139.700 ~~or 139.750~~ shall be guilty of a Class B misdemeanor.
- (4) Any person who violates any of the regulations promulgated by the cabinet ~~under KRS 139.230~~ shall be guilty of a Class B misdemeanor.
- (5) Any person, business, or motion picture production company falsifying expenditure reports, applications, or any other statements made in securing the tax credit afforded by KRS 139.5382 to 139.5386 shall be guilty of a Class D felony. Such motion picture production companies shall be denied any tax credit to which they would otherwise be entitled, and shall be prohibited from applying for any future credit afforded by KRS 139.5382 to 139.5386.

Section 33. KRS 325.445 is amended to read as follows:

A certified public accountant licensed in the Commonwealth under the provisions of this chapter, or an attorney licensed to practice law in the Commonwealth of Kentucky, with express authorization of a client may act as an agent of that client to:

- (1) Complete, sign, and file an application for a seller's permit to do business as provided in KRS 139.240;
- (2) Complete, sign, and file an application for a seller's permit for any out-of-state retailer who is not required to file for the collection of use tax under KRS 139.340 but is seeking to do so on a voluntary basis as provided by KRS 139.700;
- ~~(3) Complete, sign, and file an application for a general business license as provided for in KRS 154.12-219. A certified public accountant acting under this subsection shall remit the license fee required under KRS 154.12-219 with the application and may seek reimbursement from the applicant for that fee;~~
- ~~(4)~~ Complete, sign, and file an application for a certificate of registration to sever or process coal in this state as required by KRS 143.030; and
- ~~(4)(5)~~ Complete, sign, and file an application for an employer's withholding, corporation income, and corporation license tax registration numbers as may be required by KRS 131.130.

SECTION 34. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

- (a) ***"Bill of lading" means a document evidencing the purchase or, or delivery order for, building materials issued by a person engaged in a business that sold or leased the building materials;***
- (b) ***"Building materials" means equipment or materials associated with new home construction, home remodeling, or home maintenance, including but not limited to:***
 - 1. ***Agriculture products;***
 - 2. ***Asphalt;***
 - 3. ***Concrete;***
 - 4. ***Crushed stone;***
 - 5. ***Excavation equipment;***
 - 6. ***Fill dirt and rock;***
 - 7. ***Glass;***

- 8. *Landscaping materials;*
- 9. *Lumber or other wood products;*
- 10. *Minerals;*
- 11. *Roofing materials; and*
- 12. *Steel products;*

(c) *"Home" means:*

- 1. *A site where a single or multi-family housing unit is being initially constructed; and*
- 2. *A site where construction of a single or multi-family housing unit is complete and persons inhabit the housing unit; and*

(d) *"State road" means a state or federal highway but does not mean an interstate or county road.*

- (2) *Other statutes to the contrary in this chapter notwithstanding, any vehicle hauling building materials to a home shall be allowed, subject to the provisions of this section, to travel on any state road without a permit and without being subject to a fine, if the weight of the vehicle is within the limits of the registration issued to the vehicle and within the axle limits for the vehicle, even if the vehicle's gross weight or length, including vehicle and load, exceed the limits prescribed by this chapter or in other aspects fail to comply with this chapter.*
- (3) *A vehicle hauling building materials under this section shall be allowed to travel the most direct route, in the opinion of the operator, to the vehicle's point of destination, provided any road traveled as the most direct route shall not be further than fifteen (15) miles from a state road that is classified to carry the registered weight of the vehicle. If a vehicle is traveling a road classified by the cabinet as a single "A" highway, the vehicle or its load cannot exceed ninety-six (96) inches in width. If a vehicle or its load exceed ninety-six (96) inches in width, the operator shall be required to obtain the appropriate overdimensional permit required by this chapter to travel the proposed route. The operator of a vehicle hauling building materials under this section shall have in his or her possession a bill of lading.*
- (4) *All vehicles hauling building materials under this section shall be prohibited from exceeding the established width and posted bridge weight limits for any route the vehicle travels. A vehicle that exceeds the width or bridge limits for its posted routes shall be required to obtain the appropriate overdimensional or overweight permit required by this chapter.*

Section 35. KRS 189.221 is amended to read as follows:

A person shall not operate on any highway, except those highways designated by the secretary of transportation under the provisions of KRS 189.222, or those locally maintained highways under the provisions of KRS 189.222(9) or KRS 189.230(4), any of the following trucks, trailers, manufactured homes, or vehicles:

- (1) Any motor truck, semitrailer, trailer, manufactured home, or vehicle which exceeds eleven and one-half (11-1/2) feet in height or ninety-six (96) inches in width, including any part of the body or load;
- (2) Any motor truck, except a semitrailer truck, which exceeds twenty-six and one half (26-1/2) feet in length, including any part of the body or load;
- (3) Any semitrailer truck which exceeds thirty (30) feet in length, including any part of the body or load;
- (4) Any truck, semitrailer truck, or truck and trailer unit which exceeds 36,000 pounds gross weight, including the load;
- (5) Any truck, semitrailer truck, or tractor-trailer unit which exceeds a gross weight equal to the sum of six hundred (600) pounds per inch of the combined width of the tires upon which the vehicle may be propelled, but no more than thirty-six thousand (36,000) pounds.
- (6) Notwithstanding the provisions of this section, any truck hauling building materials ***under Section 34 of this Act, or*** to a road construction project on a highway rated less than the maximum weight provided above, may haul up to eighty thousand (80,000) pounds gross weight, including the load, without a permit. ~~[This privilege shall extend only to travel between the materials manufacturing site and the road construction project and shall be automatically rescinded upon completion of the project.]~~

Section 36. KRS 189.222 is amended to read as follows:

- (1) ***Except as provided in subsection (2) of this section,*** the secretary of the Transportation Cabinet in respect to highways which are a part of the state-maintained system, by official order, may increase on designated highways or portions thereof, the maximum height, length, and gross weight prescribed in KRS 189.221, if in the opinion of the secretary, the increased height, length, and weight designated by him are justified by the strength, safety, and durability of the designated highways, and the highways do not appear susceptible to unreasonable and unusual damage by reason of the increases and the secretary may establish reasonable classification of state maintained roads and fix a different maximum for each classification. Any increase in the height, length, or width of any motor truck or tractor semitrailer combinations or any other vehicle combinations including any part of the body or load or designation of highways to be used by the vehicles, shall not, in any way, exceed the federal law or regulations thereunder or jeopardize the allotment or qualification for federal aid funds of the Commonwealth of Kentucky or exceed the following dimensions and weights:
- (a) Height, thirteen and one-half (13-1/2) feet;
 - (b) Length, semitrailers, fifty-three (53) feet; trailers, twenty-eight (28) feet; motor trucks, forty-five (45) feet, not to exceed two (2) trailers per truck tractor;
 - (c) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. No single axle in any arrangement shall exceed twenty thousand (20,000) pounds or seven hundred (700) pounds per inch of the aggregate width of all the tires on a single axle, whichever is less. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds;
 - (d) Except on the interstate highway system, a tolerance of not more than five percent (5%) per axle load shall be permitted before a carrier is deemed to have violated paragraph (c) of this subsection. The gross weight shall not exceed eighty thousand (80,000) pounds;
 - (e) Truck tractor, semitrailer and trailer combinations, and other vehicle combinations may be operated only on the interstate system and on those parts of the federal aid highway system and the state-maintained system which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same.
- (2) ***In addition to the provisions of Section 34 of this Act, vehicles with a gross weight of up to eighty thousand (80,000) pounds may travel on any state highway in the Commonwealth without obtaining a special permit, if the weight does not exceed any limits mandated by federal law or regulation, any posted bridge weight limit, or the weight limits for the size and type of vehicle established under paragraph (c) of subsection (1) of this section, and if the vehicle is transporting any of the following:***
- (a) ***Meats or agricultural crop products originating from a farm to first market;***
 - (b) ***Livestock or poultry from their point of origin to first market;***
 - (c) ***Primary forest products, including, but not limited to, sawdust, wood chips, bark, slabs, or logs originating from their points of origin to first market; or***
 - (d) ***Supplies, materials, or equipment necessary to carry out a farming operation engaged in the production of agricultural crop products, meats, livestock, or poultry.***
- (3) Vehicles exclusively engaged in the transportation of motor vehicles, unmanufactured tobacco, or unmanufactured tobacco products may, on those highways which are a part of the state-maintained system and which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same, attain the maximum lengths as provided by subsection (1)(b) of this section, excluding the usual and ordinary bumper overhang of the transported vehicles;
- ~~(4)~~~~(3)~~ Vehicles engaged exclusively in the transportation of farm or primary forestry products and registered under KRS 186.050(4) or 186.050(9) and vehicles engaged exclusively in the transportation of ready-mixed concrete shall be excluded from the axle weight provisions, except on interstate highways, and subject only to total gross weight provisions.

- ~~(5)(4)~~ Vehicles registered pursuant to KRS 186.050(3)(b) and engaged in the transportation of primary forest products, including, but not limited to, vehicles transporting sawdust, wood chips, bark, slabs, or logs, may exceed the axle, or gross weight provisions as set forth in accordance with subsection (1)(c) of this section by a weight tolerance of ten percent (10%), except on the interstate highway system.
- ~~(6)(5)~~ Vehicles designed for and engaged exclusively in the collection and hauling of refuse and registered under KRS 186.050(3)(b) shall be excluded from the axle weight provisions, except when in operation on the federal interstate system, and subject only to total gross weight provisions.
- ~~(7)(6)~~ The secretary of the Transportation Cabinet may by order increase the weight and height limits prescribed by this chapter for motor vehicles while being operated exclusively on roads or highways being constructed, reconstructed, or repaired under contract with the Transportation Cabinet by the contractor or subcontractor, agent, or employee thereof.
- ~~(8)(7)~~ Notwithstanding any other provisions of this chapter, the secretary of the Transportation Cabinet shall not authorize the operation of any vehicle or combination of vehicles, upon any part of the federal aid highway system or state parkway system, which exceeds the following dimensions and weights:
- (a) Width, one hundred two (102) inches, including any part of the body or load;
 - (b) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds. If any federal law or laws or regulations thereunder are hereafter enacted authorizing weights and dimensions in excess of those set out in paragraphs (a) and (b) of this subsection, the secretary of the Transportation Cabinet may by official order increase the maximum weights and dimensions but the increased weights and dimensions shall not exceed those set out in this section.
- ~~(9)(8)~~ Except on the interstate highway system, vehicles engaged exclusively in the transportation of crushed stone, fill dirt and rock, soil, bulk sand, coal, phosphate muck, asphalt, concrete, solid waste, tankage or animal residues, livestock, and agricultural products shall be permitted a tolerance of ten percent (10%) of the axle weight provisions before a carrier is deemed to have violated paragraph (1)(c) of this section.
- ~~(10)(9)~~ The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A, relating to the implementation of 23 C.F.R. Part 658 as it relates to state-maintained or locally-maintained roads. The enforcement of the provisions of KRS 189.221 and this section on locally-maintained roads shall not be the responsibility of the law enforcement officers of the Transportation Cabinet, unless the head of the corresponding local government unit has requested, in writing, enforcement assistance from the Transportation Cabinet.

Section 37. KRS 189.230 is amended to read as follows:

- (1) ***Except as provided in Sections 34 and 36 of this Act and subsection (6) of Section 35 of this Act***, the department, in respect to state and federal highways, and county judges/executive in respect to county highways, may prescribe, by notice as provided in subsection (3) of this section, load and speed limits lower than the limits prescribed in KRS 189.221 and subsection (4) of KRS 189.390, respectively, if in their judgment any highway may, by reason of its design, deterioration, rain, or other natural causes, be damaged or destroyed by motor trucks or semitrailer trucks, if their gross weight or speed exceeds certain limits. The department or fiscal court may, by like notice, regulate or prohibit the operation of motor trucks or semitrailer trucks on state highways or county roads for limited periods of specified days, or parts of days, if their load and speed exceed those limits, if in their judgment, the regulation or prohibition is necessary, by reason of traffic density or intensive use by the traveling public, to provide for the public safety and convenience on the highway.
- (2) The department, in respect to bridges on the extended weight coal haul system defined in KRS 177.9771, may prescribe, by notice, as provided in subsection (3) of this section, gross weight limits lower than the limits prescribed in KRS 177.9771, when in its judgment any bridge on the extended weight coal haul road system may, by reason of its design or deterioration, be damaged or destroyed to the point of catastrophic failure by motor vehicles, if their gross weight exceeds certain limits. For the purposes of KRS 177.9771, all bridges shall conform with KRS 177.9771(4)(a) to (d).

- (3) The notice or the substance of it shall be posted at conspicuous places at the termini of and at all intermediate crossroads and road junctions with the section of the highway to which the notice applies. After a notice has been posted, a person shall not operate any motor truck or semitrailer truck contrary to its provisions.
- (4) A fiscal court shall require all persons applying for a permit issued under KRS 189.212 to enter into a cooperative agreement with the fiscal court. The cooperative agreement shall provide for an equitable apportionment of the incremental costs for design, maintenance, construction, or reconstruction of those roads and bridges on which the person will be operating under the permit issued under KRS 189.212. A fiscal court may require as part of a cooperative agreement for the person to give the fiscal court a bond to ensure payment of the equitable costs associated with the permit issued under KRS 189.212. All funds collected under this subsection shall be expended on those roads covered by the cooperative agreement.
- (5) A fiscal court shall not be relieved of expending its normal routine maintenance on all roads covered by cooperative agreements under the provisions of this section.
- (6) A person who entered a cooperative agreement with a fiscal court under the provisions of subsection (4) of this section may terminate the agreement by submitting written notice to the fiscal court. If a person terminates a cooperative agreement with a fiscal court, the permit issued under KRS 189.212 shall immediately be revoked by the fiscal court.

Section 38. KRS 189.221 is amended to read as follows:

A person shall not operate on any highway, except those highways designated by the secretary of transportation under the provisions of KRS 189.222, or those locally maintained highways under the provisions of KRS 189.222~~(10)~~~~(9)~~ or KRS 189.230(4), any of the following trucks, trailers, manufactured homes, or vehicles:

- (1) Any motor truck, semitrailer, trailer, manufactured home, or vehicle which exceeds eleven and one-half (11-1/2) feet in height or ninety-six (96) inches in width, including any part of the body or load;
- (2) Any motor truck, except a semitrailer truck, which exceeds twenty-six and one half (26-1/2) feet in length, including any part of the body or load;
- (3) Any semitrailer truck which exceeds thirty (30) feet in length, including any part of the body or load;
- (4) Any truck, semitrailer truck, or truck and trailer unit which exceeds 36,000 pounds gross weight, including the load;
- (5) Any truck, semitrailer truck, or tractor-trailer unit which exceeds a gross weight equal to the sum of six hundred (600) pounds per inch of the combined width of the tires upon which the vehicle may be propelled, but no more than thirty-six thousand (36,000) pounds.
- (6) Notwithstanding the provisions of this section, any truck hauling building materials to a road construction project on a highway rated less than the maximum weight provided above may haul up to eighty thousand (80,000) pounds gross weight, including the load, without a permit. This privilege shall extend only to travel between the materials manufacturing site and the road construction project and shall be automatically rescinded upon completion of the project.

Section 39. KRS 138.470 is amended to read as follows:

There is expressly exempted from the tax imposed by KRS 138.460:

- (1) Motor vehicles sold to the United States, or to the Commonwealth of Kentucky or any of its political subdivisions;
- (2) Motor vehicles sold to institutions of purely public charity and institutions of education not used or employed for gain by any person or corporation;
- (3) Motor vehicles which have been previously registered and titled in any state or by the federal government when being sold or transferred to licensed motor vehicle dealers for resale. Such motor vehicles shall not be leased, rented, or loaned to any person and shall be held for resale only;
- (4) Motor vehicles sold by or transferred from dealers registered and licensed in compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080 to nonresident members of the Armed Forces on duty in this Commonwealth under orders from the United States government;

- (5) Commercial motor vehicles, excluding passenger vehicles having a seating capacity for nine (9) persons or less, owned by nonresident owners and used primarily in interstate commerce and based in a state other than Kentucky which are required to be registered in Kentucky by reason of operational requirements or fleet proration agreements and are registered pursuant to KRS 186.145;
- (6) Motor vehicles previously registered in Kentucky, transferred between husband and wife, parent and child, stepparent and stepchild, or grandparent and grandchild;
- (7) Motor vehicles transferred when a business changes its name and no other transaction has taken place or an individual changes his or her name;
- (8) Motor vehicles transferred to a corporation from a proprietorship or limited liability company, to a limited liability company from a corporation or proprietorship, or from a corporation or limited liability company to a proprietorship, within six (6) months from the time that the business is incorporated, organized, or dissolved;
- (9) Motor vehicles transferred by will, court order, or under the statutes covering descent and distribution of property, if the vehicles were previously registered in Kentucky;
- (10) Motor vehicles transferred between a subsidiary corporation and its parent corporation if there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;
- (11) Motor vehicles transferred between a limited liability company and any of its members, if there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;
- (12) The interest of a partner in a motor vehicle when other interests are transferred to him;
- (13) Motor vehicles repossessed by a secured party who has a security interest in effect at the time of repossession and a repossession affidavit as required by KRS 186.045(4). The reposessor shall hold the vehicle for resale only and not for personal use, unless he has previously paid the motor vehicle usage tax on the vehicle;~~and~~
- (14) Motor vehicles transferred to an insurance company to settle a claim. These vehicles shall be junked or held for resale only;
- (15) *Motor vehicles registered under Section 42 of this Act that have a declared gross vehicle weight with any towed unit of forty-four thousand and one (44,001) pounds or greater;*
- (16) *Farm trucks registered under subsection (4) of Section 42 of this Act that have a declared gross vehicle weight with any towed unit of forty-four thousand and one (44,001) pounds or greater; and*
- (17) *In order to be eligible for the exemption established in subsections (15) and (16) of this section, motor vehicles shall be required to be registered at the appropriate range for the declared gross weight of the vehicle established in subsection (3)(b) of Section 42 of this Act and shall be prohibited from registering at a higher weight range. If a motor vehicle is initially registered in one (1) declared gross weight range and subsequently is registered at a declared gross weight range lower than forty-four thousand and one (44,001) pounds, the person registering the vehicle shall be required to pay the county clerk the usage tax due on the vehicle unless the person can provide written proof to the clerk that the tax has been previously paid.*

Section 40. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

- (1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;
- (2) Coal for the manufacture of electricity;
- (3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;
- (4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;
- (5) Poultry for use in breeding or egg production;
- (6) Farm work stock for use in farming operations;

- (7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;
- (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;
- (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;
- (10) Machinery for new and expanded industry;
- (11) Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;
- (12) Property which has been certified as a pollution control facility as defined in KRS 224.01-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1994;
- (13) Tombstones and other memorial grave markers;
- (14) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (15) On-farm facilities used exclusively for raising poultry or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply but not be limited to vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (16) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively and directly to:
 - (a) Operate farm machinery as defined in subsection (11) of this section;
 - (b) Operate on-farm grain or soybean drying facilities as defined in subsection (14) of this section;
 - (c) Operate on-farm poultry or livestock facilities defined in subsection (15) of this section;
 - (d) Operate-on farm ratite facilities defined in subsection (24) of this section;
 - (e) Operate on-farm llama or alpaca facilities as defined in subsection (26) of this section; or
 - (f) Operate on-farm dairy facilities;
- (17) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;
- (18) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

- (19) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;
- (20) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
- (21) Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, 1994;
- (22) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;
- (23) Machinery or equipment purchased or leased 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;
- (24) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:
 - (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (25) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming;
- (26) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:
 - (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (27) Baling twine and baling wire for the baling of hay and straw;
- (28) Water sold to a person regularly engaged in the business of farming and used in the:
 - (a) Production of crops;
 - (b) Production of milk for sale; or
 - (c) Raising and feeding of:
 - 1. Livestock or poultry, the products of which ordinarily constitute food for human consumption; or
 - 2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;

- (29) Buffalos to be used as beasts of burden or in an agricultural pursuit for the production of hides, breeding stock, meat, and buffalo by-products, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (30) Aquatic organisms sold directly to or raised by a person regularly engaged in the business of producing products of aquaculture, as defined in KRS 260.960, for sale, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Water;
 - (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
 - (d) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities and, any gasoline, special fuels, liquified petroleum gas, or natural gas used to operate the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;~~and~~
- (31) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the production of hides, breeding stock, meat, and cervid by-products, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and
 - (c) On-site facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities; **and**
- (32) (a) ***Repair or replacement parts for the direct operation or maintenance of a motor vehicle, including any towed unit, used exclusively in interstate commerce for the conveyance of property or passengers for hire, provided the motor vehicle is licensed for use on the highway and its declared gross vehicle weight with any towed unit is forty-four thousand and one (44,001) pounds or greater. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter.***
- (b) ***For the purposes of this subsection, "repair and replacement parts" means tires, brakes, engines, transmissions, drive trains, chassis, body parts, and their components. "Repair and replacement parts" shall not include fuel, machine oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential to the operation of the motor vehicle itself, except when sold as part of the assembled unit, such as cigarette lighters, radios, lighting fixtures not otherwise required by the manufacturer for operation of the vehicle, or tool or utility boxes.***

Section 41. KRS 186.040 is amended to read as follows:

- (1) Upon receiving the application and fee, the county clerk shall issue to the owner a certificate of registration containing the information required by subsection (2) of this section and a registration plate. If the cabinet finds that there is a shortage of materials suitable for making plates, or that a substantial saving will result, it may require by regulation with the approval of the Governor that previously issued plates continue to be used

for a designated period. ***Except as provided in subsection (3) of this section,*** for services performed, the owner shall pay the county clerk the sum of three dollars (\$3) for each registration, or if the registration exceeds a twelve (12) month period, the clerk shall receive a fee of four dollars (\$4).

- (2) The certificate of registration shall contain the registration number, the name and post office address of the owner, and such other information as the cabinet may require.
- (3) ***An owner who registers a vehicle under Section 42 of this Act that has a declared gross vehicle weight with any towed unit of forty-four thousand and one (44,001) pounds or greater shall pay the county clerk twenty dollars (\$20) for each registration. The clerk shall retain the twenty dollar (\$20) fee for services performed under this subsection.***
- (4) Any person requesting a certificate of registration or renewal of registration of any type of motor vehicle shall have the opportunity to donate one dollar (\$1) to the child care assistance account. The one dollar (\$1) donation shall be added to the regular fee for vehicle registration. One donation may be made per issuance or renewal of vehicle registration. Donation to the child care assistance account shall be voluntary and may be refused by the applicant at the time of the issuance or renewal of any vehicle registration.
- (5)~~(4)~~ The county clerk may retain five percent (5%) of fees collected for the child care assistance account under subsection ~~(4)~~~~(3)~~ of this section. The remaining funds shall be deposited into a trust and agency account in the State Treasury to the credit of the Cabinet for Families and Children for the exclusive use as follows:
 - (a) Funds shall be made available to the agencies that administer child care subsidy funds; and
 - (b) Funds shall be used as determined by the cabinet for working families whose income exceeds the state income eligibility limits for child day care assistance.

Section 42. KRS 186.050 is amended to read as follows:

- (1) The annual registration fee for motor vehicles, including taxicabs, airport limousines, and U-Drive-Its, primarily designed for carrying passengers and having provisions for not more than nine (9) passengers, including the operator, and pickup trucks and passenger vans which are not being used on a for-hire basis shall be eleven dollars fifty cents (\$11.50).
- (2) The annual registration fee for each motorcycle shall be nine dollars (\$9), and for each sidecar attachment, seven dollars (\$7).
- (3)
 - (a) All motor vehicles having a declared gross weight of vehicle and any towed unit of six thousand (6,000) pounds or less, except those mentioned in subsections (1) and (2) of this section and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (14) of this section, shall be eleven dollars and fifty cents (\$11.50).
 - (b) All motor vehicles except those mentioned in subsections (1) and (2) of this section, and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (3)(a) and (4) to (14) of this section, shall be as follows:

Declared Gross Weight of Vehicle and Any Towed Unit	Registration Fee
6,001-10,000	\$ 24.00
10,001-14,000	30.00
14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00
26,001-32,000	216.00
32,001-38,000	300.00
38,001-44,000	474.00

44,001-55,000	669.00 [544.00]
55,001-62,000	1,007.00 [882.00]
62,001-73,280	1,250.00 [1,125.00]
73,281-80,000	1,410.00 [1,260.00]

- (4) (a) Any farmer owning a truck having a gross weight of thirty-eight thousand (38,000) pounds or less may have it registered as a farmer's truck and obtain a license for eleven dollars and fifty cents (\$11.50). The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged in the production of crops, livestock, or dairy products, that he owns a truck of the gross weight of thirty-eight thousand (38,000) pounds or less, and that during the next twelve (12) months the truck shall not be used in for-hire transportation and may be used in transporting persons, food, provender, feed, machinery, livestock, material, and supplies necessary for his farming operation, and the products grown on his farm.
- (b) Any farmer owning a truck having a declared gross weight in excess of thirty-eight thousand (38,000) pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%) of the fee set out in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed, and machinery used in operating his farm and the products grown on his farm.
- (5) Any person owning a truck or bus used solely in transporting school children and school employees may have the truck or bus registered as a school bus and obtain a license for eleven dollars fifty cents (\$11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six (6) inches high, and of a conspicuous color, and the truck or bus will be used during the next twelve (12) months only for the purpose stated.
- (6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for eleven dollars and fifty cents (\$11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve (12) months the truck or bus will be used only for the purpose stated.
- (7) Any person owning a motor vehicle with a gross weight of fourteen thousand (14,000) pounds or less on which a wrecker crane or other equipment suitable for wrecker service has been permanently mounted may register the vehicle and obtain a license for eleven dollars fifty cents (\$11.50) by filing with the county clerk, in addition to other information required, an affidavit that a wrecker crane or other equipment suitable for wrecker service has been permanently mounted on such vehicle and that during the next twelve (12) months the vehicle will be used only in wrecker service. If the gross weight of the vehicle exceeds fourteen thousand (14,000) pounds, the vehicle shall be registered in accordance with subsection (3) of this section. The gross weight of a vehicle used in wrecker service shall not include the weight of the vehicle being towed by the wrecker.
- (8) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten (10) miles of the city limits of the city if it is a city of the first, second, third, or fourth class, or within five (5) miles of its limits if it is a city of the fifth or sixth class, or anywhere within a county containing an urban-county government, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay seventy-five percent (75%) of the fee set forth in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. Nothing in this section shall be construed to limit any right of nonresidents to exemption from

registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.

- (9) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility, where such mill or processing facility is located at a point not more than fifty (50) air miles from the harvest area or which are used exclusively for the transportation of concrete blocks or ready-mixed concrete from the point at which such concrete blocks or ready-mixed concrete is produced to a construction site where such concrete blocks or ready-mixed concrete is to be used, where such construction site is located at a point not more than thirty (30) air miles from the point at which such concrete blocks or ready-mixed concrete is produced shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof, shall pay seventy-five percent (75%) of the fee set out in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.
- (10) Any owner of a commercial vehicle registered for a declared gross weight in excess of eighteen thousand (18,000) pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056(2), may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for one dollar (\$1). Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056(2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.
- (11) The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be twenty dollars (\$20) and the multiyear license plate issued shall be designated "Recreational vehicle." The foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any sleeping or eating facilities, or any commercial vehicle having sleeping facilities.
- (12) The registration fee on any vehicle registered under this section shall be increased fifty percent (50%) when the vehicle is not equipped wholly with pneumatic tires.
- (13)
 - (a) The Department of Vehicle Regulation is authorized to negotiate and execute an agreement or agreements for the purpose of developing and instituting proportional registration of motor vehicles engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the cabinet shall promulgate administrative regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any proportional registration agreement or agreements shall be in accordance with the taxes established in this section.
 - (b) Any owner of a commercial vehicle who is required to title his motor vehicle under this section shall first title such vehicle with the county clerk pursuant to KRS 186.020 for a state fee of one dollar (\$1). Title to such vehicle may be transferred; however title without proper registration shall not authorize the operation or use of the vehicle on any public highway. Any commercial vehicle properly titled in Kentucky may also be registered in Kentucky, and, upon payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle.
 - (c) Any commercial vehicle that is properly titled in a foreign jurisdiction, which vehicle is subject to apportioned registration, as provided in paragraph (a) of this subsection, may be registered in Kentucky,

and, upon proof of proper title, and payment of the required fees, the department may issue an apportioned registration plate to the commercial vehicle. The department shall promulgate administrative regulations in accordance with this section.

- (14) Any person seeking to obtain a special license plate for an automobile that has been provided to him pursuant to an occupation shall meet both of the following requirements:
- (a) The automobile shall be provided for the full-time exclusive use of the applicant; and
 - (b) The applicant shall obtain permission in writing from the vehicle owner or lessee on a form provided by the cabinet to use the vehicle and for the vehicle to bear the special license plate.

Section 43. KRS 235.085 is amended to read as follows:

- (1) The county clerk shall be entitled to the same fee for the performance of the duties required in the issuance of certificates of title and registration for motorboats as is applicable to the issuance of certificates of title and registration of motor vehicles as provided by KRS 186.040(I), 186.180, 186A.130, and 186A.245.
- (2) The Transportation Cabinet shall be entitled to the same fee for the performance of duties required in the issuance of certificates of title or duplicate titles for motorboats as is applicable to the issuance of certificates of title of motor vehicles as provided in KRS 186A.130 and 186A.245. The Transportation Cabinet shall receive a two dollar (\$2) fee when a motorboat owner is issued a replacement license decal for the operation of a motorboat. The fees shall be deposited in a trust and agency account for use by the Transportation Cabinet in defraying the cost of implementing, administering, and operating the boat titling and registration program.

Section 44. Sections 39 through 44 of this Act shall be cited as the "Trucking Economic Viability Act of 2003."

Section 45. The following KRS sections are repealed:

- 139.130 "Sales price."
- 139.370 Prohibited advertising.
- 139.400 Presumption that property sold is for use in this state.
- 139.410 Resale certificate.
- 139.420 Contents and form of certificate.
- 139.460 Presumption as to property delivered outside state to Kentucky resident -- How controverted.
- 139.490 Purchaser's liability for using property in other than exempt way after certification.
- 139.532 Applicability of sales or use tax to gross receipts from various sources.
- 139.560 Contents of monthly return.
- 139.690 Condition of refund on ground that use tax is not applicable.
- 139.750 Deliveryman's duty to collect use tax -- Exceptions.
- 154.12-219 General business license.
- 154.99-012 Penalties for Subchapter 12.

Section 46. The provisions of Sections 1 through 33 and Section 45 of this Act take effect July 1, 2004.

Section 47. The provisions of Section 39 of this Act shall take effect October 1, 2003.

Section 48. The provisions of Section 40 of this Act shall take effect January 1, 2004.

Section 49. The provisions of Sections 41 to 44 of this Act shall take effect July 1, 2003.

Approved March 18, 2003

CHAPTER 125

(HB 297)

AN ACT relating to fire safety.

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

Section 1. KRS 227.336 is amended to read as follows:

- (1) Whenever the state fire marshal or any deputy state fire marshal appointed or employed by him *or her* makes any finding set forth in subsection (1) of KRS 227.330, or finds any property in violation of any provision of KRS 227.200 to 227.410 or any regulations adopted thereunder, in lieu of the order required in KRS 227.330(1), he *or she shall*~~may~~ notify the owner or his *or her* agent in writing of such *specific* finding and violation and instruct him *or her* to correct the violation within a period of time~~to be determined at his discretion, but~~ not to exceed sixty (60) days. Should the owner fail to make the required corrections within the specified time, the state fire marshal may proceed to take any other action authorized in this chapter.
- (2) *If the state fire marshal or a deputy state fire marshal is required to make additional inspections, beyond the initial inspection and one (1) follow-up inspection, to determine if the required corrections referred to in subsection (1) of this section have been made, the state fire marshal or the deputy state fire marshal shall assess a fee against the property owner to recover the cost of each additional inspection according to the following schedule:*
Third inspection fee.....\$100.00
Fourth inspection fee.....\$200.00
Fifth and subsequent inspection fee.....\$500.00
- (3) *Any fee collected under the provisions of this section by the state fire marshal shall be payable to the State Treasury and credited to the Office of the State Fire Marshal for the operation of the general inspection program. Any fee collected under the provisions of this section by a deputy state fire marshal shall be payable to the fire department conducting the inspection.*
- (4) *If during a follow-up inspection or any subsequent inspection for the same violation the state fire marshal or a deputy state fire marshal finds an additional violation not found during the initial inspection, such additional violation shall be treated as an initial violation which the property owner shall have the opportunity to correct under subsection (1) of this section prior to the assessment of a fee under subsection (2) of this section.*

Approved March 18, 2003

CHAPTER 126

(HB 312)

AN ACT relating to chiropractors.

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

Section 1. KRS 312.019 is amended to read as follows:

- (1) The board shall administer the provisions of this chapter and the administrative regulations promulgated by the board relating to the practice of chiropractic.
- (2) The board shall pass upon the qualifications of applicants for a license, certification, or registration to practice chiropractic. It shall examine, license, certify, register, and renew the license, certification, or registration of duly qualified applicants.
- (3) The board may deny, revoke, *limit, impose probationary conditions*, refuse to renew, or suspend any license, certification, or registration issued by it.
- (4) The board shall adopt a seal which shall be affixed to all licenses, certifications, and registrations issued by the board and to such other documents as the board deems necessary.

- (5) The board shall regulate the practice of chiropractic by persons licensed or certified by it and shall enforce the provisions of this chapter and the administrative regulations of the board. The board may investigate violations and cause the prosecution of persons violating the provisions of this chapter or the administrative regulations promulgated by the board.
- (6) The board may employ such personnel and incur such expenses as may be necessary for the performance of its duties and the enforcement of this chapter.
- (7) The board may prescribe and collect reasonable fees for the issuance and renewal of licenses, certifications, and registrations and the administration of examinations as provided in KRS 312.095 and 312.175.
- (8) The board may inspect at all reasonable times any chiropractic office or place where chiropractic services are performed ***and inspect chiropractic records, a copy of which may be obtained by the board, and question all persons.***
- (9) The board may promulgate and from time to time amend administrative regulations, consistent with the provisions of this chapter and in accordance with the provisions of KRS Chapter 13A, governing the practice of chiropractic and the diagnosis and treatment of patients, the enforcement of this chapter and the proper performance of its duties, including but not limited to:
 - (a) A code of ethical conduct governing the practice of chiropractic;
 - (b) Requirements, standards, and examinations to determine the moral, physical, intellectual, educational, scientific, technical, and professional qualifications of applicants for licenses and certifications;
 - (c) Matters pertaining to the content and conduct of examinations;
 - (d) Matters pertaining to the operation and registration of chiropractic clinics;
 - (e) Matters pertaining to the practice and certification of chiropractic specialties by licensed doctors of chiropractic;
 - (f) The type, ~~and~~ character, ***and location*** of postgraduate study to be done by any licensee in order to comply with the provisions of KRS 312.175;
 - (g) Regulation of forms of advertising or solicitation that are false, misleading, or deceptive or otherwise in violation of this chapter. The board may require a seventy-two (72) hour rescission period for consumers responding to certain forms of solicitation or advertising proposing or offering a series or course of treatments. The board may require that advertisements or solicitations stating coverage available from third-party payors include a conspicuous notice that persons may be required to submit to an independent evaluation which may result in a determination that the all or part of the services are unreasonable or unnecessary;
 - (h) Establishing a recommended course of pre-chiropractic education to be completed prior to entry into chiropractic college and the establishment of a preceptorship program for students enrolled in accredited chiropractic colleges that conform to KRS 312.085 to meet the standards of accreditation of the Council on Chiropractic Education.
 - (i) Registration and regulation of chiropractic management consultants operating in Kentucky. The board may impose annual registration fees not to exceed two hundred dollars (\$200); and
 - (j) Establishing minimum standards for recordkeeping in chiropractic offices, the issuance of itemized statements, and requiring that any record or report include the name of the treating chiropractor.
- (10) The board shall develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by a chiropractor licensed by the board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure the process does not revictimize the alleged victim or cause harm if a chiropractor is falsely accused.
- (11) The board, the hearing officer, and investigators hired by the board shall receive training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, the 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.

Section 2. KRS 312.021 is amended to read as follows:

- (1) No licensed doctor of chiropractic shall advertise or hold himself out to the public *in any manner which is false, deceptive, misleading, or* as being especially qualified *or advanced* in any branch of the practice of chiropractic except as certified by the board.
- (2) The board shall identify by administrative regulation those specialties of the chiropractic for which certification may be granted and shall establish by administrative regulation the procedures for obtaining and maintaining such certification and the fees therefor.

Section 3. KRS 312.055 is amended to read as follows:

- (1) The board shall elect from its members a president, vice-president, and *a secretary or* an executive secretary. The executive secretary shall receive an annual salary to be established by the board by promulgation of administrative regulations.
- (2) Each member of the board shall receive his necessary traveling expenses and members other than the executive secretary shall receive a per diem not to exceed one hundred dollars (\$100) for each day they actually spend in the discharge of their official duties.

Section 4. KRS 312.065 is amended to read as follows:

The board shall hold meetings at least annually ~~[to examine applicants and]~~ for the transaction of business. *A majority of the board shall constitute a quorum for the transaction of business.* The State Property and Buildings Commission shall, at the request of the board, provide an office at the capitol where meetings may be held. The president of the board or a majority of its members may for necessary or appropriate cause call other meetings by transmitting prior written notice of the time and place set for the meeting to all board members. ~~[Twenty (20) days notice shall be presumed to be reasonable.]~~

Section 5. KRS 312.085 is amended to read as follows:

- (1) Any persons desiring to practice chiropractic in this state shall make application to the board, ~~[through its executive secretary,]~~ in the form and ~~[in the]~~ manner established by the board by the promulgation of administrative regulations, ~~[at least thirty (30) days prior to any meeting held for examinations by the board].~~ Each applicant shall have satisfactorily completed not less than sixty (60) semester credit hours of study from a college or university accredited by the Southern Association of Colleges and *Schools or other regional accrediting agencies as recognized by the United States Department of Education and the Council on Higher Education Accreditation, be* ~~[Universities or an accrediting agency recognized by the Southern Association of Colleges and Universities or any successor to the powers of either and is]~~ a graduate of *a* ~~[an accredited chiropractic]~~ college *or university* accredited by the Council on Chiropractic Education or their successors, and which maintains a standard and reputability approved by the board, *and meet the requirements of KRS 214.610 and KRS 214.615.*
- (2) The board may by administrative regulation *require* ~~[recommend]~~ a two-year pre-chiropractic course of instruction to be completed prior to entry into chiropractic college. The board may by administrative regulation establish a preceptorship program where students or graduates of accredited chiropractic colleges as stated in this section may work with and under the direction and supervision of a licensed doctor of chiropractic prior to the taking of the appropriate licensing examination.
- (3) Applications shall be ~~[made and]~~ signed in applicant's own handwriting, and shall be sworn to and before an officer authorized to administer oaths, and shall recite the history of the applicant as to his educational *experience* ~~[advantages, his experience in matters pertaining to knowledge of the care of the sick,]~~ his length of study of chiropractic, what collateral branches he has studied, the length of time he has been engaged in clinical practice, accompanying same with a diploma, or diplomas awarded to applicant by a college or colleges in which such studies were pursued. Certificates of attendance from the college or colleges from which he is a graduate, stating dates of matriculation, graduation, and number of months and hours in attendance shall accompany the application, with satisfactory evidence of good character and reputation. No license shall be issued to any person convicted of a felony unless he has been pardoned *and approved by the board.*
- ~~[(4) Application for examination may be made on or before September 1, 1992, by persons who, prior to March 1, 1992, had submitted application for licensure to the board and who graduated between the years 1976 and 1991, from a chiropractic college which on January 1, 1992, is accredited by a specialized accrediting agency recognized by the United States Office of Education. The board shall administer an appropriate licensing~~

~~examination prior to November 1, 1992. Persons licensed under this subsection shall complete twenty four (24) hours of continuing chiropractic education during the first year of their licensure.~~

Section 6. KRS 312.095 is amended to read as follows:

There shall be paid to the ~~executive secretary of the~~ board by each applicant at the time of his application for a license, a **nonrefundable** fee not to exceed **four**~~three~~ hundred dollars **(\$400)**~~(\$300)~~, ~~which shall include the examination fee.~~

Section 7. KRS 312.145 is amended to read as follows:

- (1) ~~[All licenses issued by the board shall be in such form as the board may establish by promulgation of administrative regulations. Before]~~Any license~~[is]~~ issued by the board~~[, it]~~ shall be numbered~~[and properly recorded by the executive secretary]~~. The **license**~~[record]~~ shall be open to public inspection, and in all actions or proceedings in any court, a transcript, or any part thereof, certified~~[by the executive secretary]~~ under the seal of the board to be a true copy, shall be entitled to admission in evidence.
- (2) The board may at any time inquire into the identity of any person claiming to hold a license to practice chiropractic in the state, and after due service of a notice in writing, require him to prove to the satisfaction of the board that he is the person authorized to practice under the license by virtue of which he claims the privilege to practice in this state. When the board finds that a person claiming to be the holder of a license to practice in this state is not in fact the person to whom the license was issued, it shall reduce its findings to writing and file them in its office, and such findings shall be prima facie evidence that the claimant does not hold a license to practice in this state.
- (3) Ownership or operation of a chiropractic facility within this state constitutes the practice of chiropractic requiring licensure~~[of the owner or operator]~~. A chiropractic facility using an assumed name shall include the name of the owner **or operator**~~[and facility]~~, and either the word "chiropractic" or "chiropractors."
- (4) ***By application and renewal, every chiropractor must annually provide the board with the name and address of each facility where the chiropractor practices. The chiropractor shall notify the board within ten (10) days of any change of address or change in practice location. All correspondence from the board shall be sent to the most recent address of record.***~~[Chiropractic facilities utilizing chiropractors whose name is not used in the name of the facility shall register annually with the board and provide the name and address of the owner and the name and address of all doctors practicing in the facility. The board shall be notified within ten (10) days of any change. The board may establish by promulgation of administrative regulations an annual registration fee not to exceed two hundred fifty dollars (\$250)].~~

Section 8. KRS 312.150 is amended to read as follows:

- (1) Charges may be preferred by the board against the holder of a license to practice chiropractic in this state on any of the following grounds:
 - (a) That fraud, **misrepresentation, concealment of material facts**, or deceit was used in **obtaining or retaining**~~[securing]~~ the license;
 - (b) That the licensee no longer possesses a good moral character;
 - (c) That the licensee has been convicted of a felony or violation of any law involving moral turpitude;
 - (d) That the licensee **solicits or advises patients utilizing false, deceptive, or misleading statements or information**~~[solicits patients through an agent]~~;
 - (e) That the licensee is **impaired by**~~[addicted to the use of narcotic]~~ drugs or **alcohol to the extent that it may affect the health, welfare, or safety of patients**~~[is a chronic alcoholic]~~;
 - (f) That the licensee is in any way guilty of any deception, misrepresentation, fraud, or unethical conduct in the practice of chiropractic;
 - (g) That the licensee has violated any of the provisions of this chapter, or any of the administrative regulations of the board;
 - (h) That the licensee failed to attend and complete annual continuing chiropractic education courses as provided in KRS 312.175;~~[or]~~

- (i) That the licensee failed to provide **a complete copy of the patient's medical records or** an itemized statement to the patient~~[immediately]~~ upon request, **pursuant to KRS 422.317, within ten (10) business days; or**
 - (j) **That the chiropractor failed to provide notice of a change in address or change in the name and address of the facility where the chiropractor practices as required by KRS 312.145(4).**
- (2) Unprofessional conduct shall include any departure or the failure to conform to the minimal standards of acceptable chiropractic practice or the willful or careless disregard for the health, welfare, or safety of patients, in any of which cases proof of actual injury need not be established. Unprofessional conduct shall include, but not be limited to, the following acts of a chiropractor:
 - (a) Gross ignorance of, or incompetence in, the practice of chiropractic;
 - (b) Performing unnecessary services;
 - (c) Charging a patient an unconscionable fee or charging for services not rendered;
 - (d) Directly or indirectly engaging in threatening, dishonest, or misleading fee collection techniques, including having patients enter into a contract for a course of treatment;
 - (e) Perpetrating fraud upon patients, third-party payors, or others, relating to the practice of chiropractic, including violations of the federal **Medicaid and Medicare laws**~~[law]~~;
 - (f) Advertising that the licensee shall accept for services rendered assigned payments from any third-party payor as payment in full, if the effect is to give the impression of eliminating the need for payment by the patient of any required deductible or copayment applicable in the patient's health benefit plan; or advertising a fee or charge for a service or treatment different from the fee or charge the licensee submits to a third-party payor for that service of treatment. The licensee shall attach to any claim form submitted to any third-party payor a copy of any coupon or a summary of the terms of any discount given;
 - (g) Accepting for services rendered assigned payments from any third-party payor as payment in full, if the effect is to eliminate the need for payment by the patient of any required deductible or copayment applicable in the patient's health benefit plan, or collecting a fee or charge the licensee submits to a third-party payor for that service or treatment. However, in instances where the intent is not to collect excessive remuneration from a third-party payor but rather to provide services at a reduced rate to a patient unable to afford the deductible or copayment, the services may be performed for a lesser charge or fee. The third-party payor shall be informed by the licensee of the reduced charge; or
 - (h) Conviction of a misdemeanor offense under KRS Chapter 510 involving a patient while the patient was under the care of the chiropractor, or a felony offense under KRS Chapter 510, 530.064, or 531.310, or the chiropractor having been found by the board to have had sexual contact as defined in KRS 510.010 with a patient while the patient was under the care of the chiropractor.
- (3) Upon receipt and due consideration of any charges, the board upon an affirmative vote~~[of a majority of its members]~~ shall determine whether the nature and quality of the charges are such that further investigation or initiation of disciplinary proceedings against the charged licensee is indicated. **If disciplinary proceedings are not warranted, the charges shall be dismissed with or without prejudice.** If the board determines that disciplinary proceedings are appropriate, **the case may be resolved informally by agreed order or**~~[the charges shall be]~~ set~~[down]~~ for hearing to be conducted in accordance with KRS Chapter 13B.
- (4) Except for revocation for nonrenewal, no license shall be revoked or suspended without **an opportunity for a hearing.** The board may at any time proceed against a licensee on its own initiative either on the basis of information contained in its own records or on the basis of information obtained through its informal investigation.~~[When a formal complaint verified by affidavit is filed with the board by a responsible citizen or organization and containing allegations that if true would warrant suspension or revocation of a license, the board shall proceed against the licensee within three (3) months.]~~
- (5) If the board substantiates that sexual contact occurred between the chiropractor and a patient while the patient was under the care of or in a professional relationship with the chiropractor, the chiropractor's license may be revoked or suspended with mandatory treatment of the chiropractor as prescribed by the board. The board may require the chiropractor to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

SECTION 9. A NEW SECTION OF KRS CHAPTER 312 IS CREATED TO READ AS FOLLOWS:

- (1) *Subpoenas for witnesses, whose evidence is deemed material to an investigation or hearing authorized by KRS 312.150 and this section, may be issued by the board or any officer of the board and under the seal of the board, commanding the witness to appear before the board at a time and place to be named, and to bring books, records, and documents that may be specified, or to submit books, records, and documents for inspection. Subpoenas may be served by any sheriff or deputy.*
- (2) *When any witness who has been served with a subpoena fails or refuses to appear at the time and place named; or fails or refuses to answer any lawful question propounded; or fails to produce the books, records, or documents required; or is guilty of disorderly or contumacious conduct at the hearing, the board may invoke the aid of the Franklin Circuit Court and any order or subpoena of the court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in the state.*
- (3) *Witnesses shall be entitled to the same fees and mileage as they may be entitled to by law for attending as witnesses in a Circuit Court.*
- (4) *Witnesses who testify under subpoena shall be entitled to the same protection and immunities as witnesses in judicial proceedings.*

Section 10. KRS 312.160 is amended to read as follows:

- (1) Any *licensed* person ~~who~~~~{whose license}~~ has been *disciplined after a hearing*~~{revoked or suspended}~~ shall have the right to appeal to the Franklin Circuit Court in accordance with KRS Chapter 13B. If the person ~~who~~~~{whose license}~~ has been *disciplined*~~{revoked or suspended}~~ fails to appeal *within thirty (30) days after the final order is mailed or personally served*, the final order of the board shall be final.
- (2) *Any disciplinary matter shall be reported to the Healthcare Integrity and Protection Data Bank or to the board's authorized agent*~~{The action of the board shall be recorded in the same manner as licenses are recorded, and the name of the person whose license is revoked or suspended shall be stricken either indefinitely or for the period of the suspension from the list of license holders, and he shall be disqualified from practicing chiropractic in this state until the revocation or suspension is terminated}.~~

Section 11. KRS 312.163 is amended to read as follows:

- (1) In addition to the other powers granted to the board under this chapter, the board may, in connection with any person whom the board, after a hearing adjudges unqualified or whom the board, after a hearing, finds to have performed one (1) or more of the acts described in KRS 312.150:
 - (a) Revoke the license to practice;
 - (b) Suspend the license to practice~~{for a period not to exceed three (3) years}~~;
 - (c) Publicly reprimand or censure the person;
 - (d) Place the person on probation for a period and upon the terms and conditions that the board may establish~~{by promulgation of administrative regulations}~~~~;~~~~{and}~~
 - (e) Require payment of all costs of proceedings resulting *from*~~{in}~~ the disciplinary action; *and*
 - (f) *Limit the license to practice.*
- (2) The board may also impose a~~{civil}~~ penalty not exceeding *five*~~{two}~~ thousand dollars *(\$5,000)*~~{(\$2,000)}~~ for each separate violation~~{, the amount of the civil penalty to be fixed so as to deprive the doctor of chiropractic of any economic advantage gained by reason of the violation charged or to reimburse the board for the cost of the investigation and proceeding}.~~
- (3) A licensee subject to any disciplinary proceeding under this chapter shall be afforded an administrative hearing conducted in accordance with KRS Chapter 13B and may appeal any final order of the board to the Franklin Circuit Court.

Section 12. KRS 312.175 is amended to read as follows:

- (1) *Each person*~~{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 ~~inactive~~~~[nonresident]~~ licensee and not more than ~~five~~~~[two]~~ hundred dollars ~~(\$500)~~~~[((\$200)]~~ for each ~~active~~~~[resident]~~ licensee each year to the board. In addition to the payment of the renewal fee, the ~~active~~ 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 ~~forty-five (45)~~~~[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 ~~board~~~~[executive secretary]~~ shall, within ~~forty-five (45)~~~~[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 ~~three~~~~[one]~~ hundred dollars ~~(\$300)~~~~[((\$100)]~~. If the licensee fails to renew his license within ~~forty-five (45)~~~~[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 ~~five~~~~[two]~~ hundred dollars ~~(\$500)~~~~[((\$200)]~~ for each delinquent year or any part thereof in addition to the renewal fee of not more than ~~five~~~~[three]~~ hundred dollars ~~(\$500)~~~~[((\$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.]~~
- (3) *Any licensee whose license has been revoked for less than four (4) years, may not apply for a license pursuant to KRS 312.085. The licensee may only apply for restoration pursuant to subsection (2) of this section.*
- (4) *Any licensee whose license has been revoked for more than four (4) years may apply for a license by examination, as long as the licensee pays a restoration fee not to exceed five hundred dollars (\$500) for each delinquent year, or any part thereof, in addition to the renewal fee of not less than five hundred dollars (\$500) and not more than three thousand dollars (\$3,000).*

Section 13. The following KRS section is repealed:

312.135 Filing license with county clerk.

Approved March 18, 2003

CHAPTER 127

(HB 328)

AN ACT relating to licensing of primary care centers.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of law, a not-for-profit primary care center licensed under KRS Chapter 216, which is a participant in the Kentucky Patient Access and Care System of the Department for Medicaid Services, may enter into a written agreement with a board of education to provide a school-based health care program. The agreement shall include the following provisions:

- (1) *The services shall include basic primary care, episodic acute care, care for chronic conditions, and preventive health care for the pupils enrolled in the school;*
- (2) *The program shall be located in a public school;*

- (3) *The program shall operate as a satellite of a licensed primary care center under the supervision of the medical director of the primary care center;*
- (4) *When in operation as a satellite of a primary care center, the program staff shall include a physician, physician assistant, or advanced registered nurse practitioner and may be staffed with additional health care professionals appropriate for the services being provided; and*
- (5) *The program may, under agreement with the school, participate in the school's health education program.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

Until August 1, 2004, Section 1 of this Act shall apply only to primary care centers operating a satellite school-based health care program on the effective date of this Act. Until August 1, 2004, no primary care center licensed under KRS Chapter 216B shall enter into an agreement with a board of education to operate a school-based health care program that was not in operation on the effective date of this Act.

Approved March 18, 2003

CHAPTER 128

(HB 364)

AN ACT relating to retirement.

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

Section 1. 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 or transfer of credit as provided in 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 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.
- 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 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 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 KRS 6.505(2).
- ~~(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 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 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) of this section.~~
- ~~(4)(6)~~ A member who has qualified for benefits under 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 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 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).
- ~~(5)(7)~~ (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 is in office on June 21, 2001, and who is in active contributing status to the applicable retirement plan on June 21, 2001, and 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 through a direct trustee-to-trustee transfer as permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder or through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31) and any regulations or rulings issued thereunder. Service credit may also be purchased by a rollover of funds pursuant to and permitted under the rules specified in 26 U.S.C. sec. 402(c) and 26 U.S.C. sec. 408(d)(3). The Legislators Retirement Fund shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder. 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).

Section 2. KRS 6.520 is amended to read as follows:

- (1) A member of the Legislators' Retirement Plan who retires on or after his normal retirement date shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to three and fifty one-hundredths percent (3.50%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the sixty (60) months of service immediately preceding retirement, except that in the case of a legislator who retires pursuant to KRS 21.410 or who dies in office, "final compensation" shall be ***the assumed salary in KRS 61.510(13)***~~[two thousand two hundred ninety one dollars sixty six cents (\$2,291.66)]~~.
- (2) A member shall have rights, with respect to retirement before reaching normal retirement date in the Legislators' Retirement Plan, identical in terms with those rights provided in KRS 21.400(2) and (3) in the Judicial Retirement Plan for members of that plan, except that the reduction in a legislators' service retirement allowance for early retirement shall be at the rate of five percent (5%) of the allowance for each year that retirement precedes the normal retirement date.
- (3) Subsections (1) and (2) of this section to the contrary notwithstanding, each legislator in office on July 1, 1982, that is a member of the Legislators' Retirement Plan, who retires on or after his normal retirement date, shall receive a service retirement allowance, payable monthly, on a formula equal to that of a justice or judge of the Court of Justice with an equivalent service entrance date, but in no event less than that specified in subsection (1) of this section, of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of his final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the sixty (60) months of service immediately preceding retirement ***as provided in KRS 6.525.***

- (4) Subsections (1) and (2) of this section to the contrary notwithstanding, a member of the Legislators' Retirement Plan with a service entrance date after July 1, 1982, who retires on or after his normal retirement date, shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to two and seventy-five one-hundredths percent (2.75%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the sixty (60) months of service immediately preceding retirement ***as provided in KRS 6.525.***

Section 3. KRS 6.525 is amended to read as follows:

The Legislators' Retirement Plan shall be governed by KRS 21.560 and by provisions identical in terms with those provided in KRS 21.345(1) and (3), 21.360(1), 21.370 to 21.410, 21.420, 21.425, 21.450, 21.460, 21.470, 21.480, 21.525, and 61.552 for the Judicial Retirement Plan, except that:

- (1) Five (5) years of service as a legislator will be sufficient for vesting; and
- (2) A member of the Legislators' Retirement Plan may combine his service credit with his service credit in the Teachers' Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System at the time of his retirement, according to the procedure of KRS 61.680(2)(a), ***except that the salary used to determine final compensation shall be based on the assumed salary in KRS 61.510(13) for service while a member of the General Assembly whether or not a member of the Legislators' Retirement Plan.*** A member of the Legislators' Retirement Plan may retire at the completion of thirty (30) or more years of combined service credit, so long as at least fifteen (15) years of such credit were earned after January 1, 1960, and there shall be no reduction in the retirement allowance because of retirement before the age of sixty-five (65). For the purposes of this section, any reference in the KRS sections listed above to the Judicial Retirement Plan shall also be read as a reference to the Legislators' Retirement Plan, and any reference to the Legislators' Retirement Plan shall also be read as a reference to the Judicial Retirement Plan.
- (3) Any other statute to the contrary notwithstanding, a member of any state-administered retirement system who has ceased to qualify for membership but subsequently returns to a qualified status, shall, for the purposes of determining the date of entry into the state-administered retirement system for the subsequent period or periods of service, be deemed to have never left the retirement system.

Section 4. KRS 6.577 is amended to read as follows:

- (1) The board of trustees of the Judicial Form Retirement System 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 Legislators' Retirement Plan. The board may authorize present and future recipients of a retirement allowance from the Legislators' Retirement Plan who are under age sixty-five (65) 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. For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky, the board shall provide a medical insurance premium reimbursement plan as described in subsection (5) of this section.
- (2) Each employer participating in the Legislators' Retirement Plan shall contribute to the plan the amount necessary to provide hospital and medical insurance as provided for under this section. The employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of the total employer contribution rate to the Legislators' Retirement Plan.
- (3) ***Depending on the months of service credit on which the retirement allowance was based, provided that there are at least forty-eight (48) months, all or a portion of*** the premium required to provide hospital and medical benefits under this section shall be paid in full from the insurance fund established by KRS 6.575 for all recipients of a retirement allowance from the Legislators' Retirement Plan ***as follows:***

<i>Months of Service</i>	<i>Percentage Paid</i>
<i>48 to 119, inclusive</i>	<i>25%</i>
<i>120 to 131, inclusive</i>	<i>50%</i>
<i>132 to 143, inclusive</i>	<i>55%</i>

<i>144 to 155, inclusive</i>	<i>60%</i>
<i>156 to 167, inclusive</i>	<i>65%</i>
<i>168 to 179, inclusive</i>	<i>70%</i>
<i>180 to 191, inclusive</i>	<i>75%</i>
<i>192 to 203, inclusive</i>	<i>80%</i>
<i>204 to 215, inclusive</i>	<i>85%</i>
<i>216 to 227, inclusive</i>	<i>90%</i>
<i>228 to 239, inclusive</i>	<i>95%</i>
<i>240 or more</i>	<i>100%</i>

The payments shall be made from the fund only if the recipient agrees to pay the remaining percentage, if any, from his monthly retirement allowance or by any other method equally insuring payment by him~~[-if the recipient had two hundred forty (240) months or more of service upon retirement. If the recipient had less than two hundred forty (240) months of service, but at least one hundred thirty two (132) months of service, fifty five percent (55%) of the premium shall be paid from the insurance fund plus an additional five percent (5%) of the premium for each year of service beginning with the completion of twelve (12) years of service and continuing through the completion of nineteen (19) years of service. The recipient shall agree to pay by payroll deduction or another method the difference between what is paid from the insurance fund and one hundred percent (100%) of the premium. If the recipient had at least one hundred twenty (120) months of service, fifty percent (50%) of the premium shall be paid from the insurance fund, if the recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. If the recipient had less than one hundred twenty (120) months of service but at least forty eight (48) months of service, twenty five percent (25%) of the premium shall be paid from the insurance fund, if the recipient agrees to pay the remaining seventy five percent (75%) by payroll deduction from his retirement allowance or by another method]. "Months of service" as used in this section shall not include service added to determine disability benefits.~~

- (4) The insurance fund shall pay the same percentage of the premium for the spouse and dependents of a recipient, or the beneficiary of the recipient, as the fund pays or paid for the member.
- (5) The board shall establish a medical insurance premium reimbursement plan 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. An eligible recipient shall file proof of payment for hospital and medical insurance premiums 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 contribution determined by the board of trustees. The plan shall not be made available if all recipients are eligible for the same level of coverage as recipients living in Kentucky.
- (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) Notwithstanding any other statute to the contrary, any member with at least forty-eight (48) months of legislative service who is also eligible for benefits, or who is receiving benefits from any retirement plan or system administered by the Commonwealth shall be entitled to hospital and medical benefits as described in subsection (3) of this section, except that the number of months of service credit used in calculating the level of benefits shall be the sum of the service credited to the member in all the state-administered retirement systems or plans.
 - (a) Upon request of the member, the Legislators' Retirement Plan shall compute the member's combined service in all the state-administered retirement systems or plans, and calculate the portion of the member's premium to be paid by the Legislators' Retirement Plan, according to the criteria established in subsection (3) of this section. The state-administered retirement systems or plans shall pay to the Legislators' Retirement Plan the applicable percentage of the plan's costs of the retiree's hospital and

medical premium which shall be equal to the percentage of the member's number of months of service in the applicable state-administered retirement system divided by his total combined service. The amounts paid by all the state-administered retirement systems or plans shall not be more than one hundred percent (100%) of the premium amount adopted by the respective boards of trustees.

- (b) A member who elects hospital and medical benefits under this section shall lose any claim to insurance benefits under any of the other state-administered retirement systems or plans.

Section 5. KRS 21.530 is amended to read as follows:

For administrative purposes only, as hereinafter provided, the Legislators' Retirement Plan and the Judicial Retirement Plan shall be coordinated under the name, Judicial Form Retirement System, but each of the plans shall maintain its separate identity. A board of trustees of that system hereby is created, to consist of eight (8) members, three (3) of whom shall be appointed by the Supreme Court, two (2) by the Governor, one (1) by the President of the Senate, one (1) by the Speaker of the House of Representatives, and one (1) by the president and speaker jointly. The appointments by the Governor shall not be from among the members of either of the plans in the system, or from among the persons drawing benefits from either of those plans. The members of the board shall serve for terms of four (4) years, commencing as of July 1, 1980, and until their successors are chosen and have qualified; provided that if a member of the board who was a member of one (1) of the plans in the system when he was appointed ceases to be a member of that plan, a vacancy shall thereupon be deemed to exist in his position on the board; and provided further, that the members of the Judicial Retirement Board in office on July 1, 1980, shall serve for the remainder of the terms for which they were appointed, as the members of the board created by this section, in the positions appointable by the Supreme Court and the Governor. Vacancies shall be filled by the appointing authority for the unexpired term. The members shall annually elect a chairman. *Gubernatorial appointees, and judicial and legislative appointees*~~[Board members]~~ who do not receive an annual salary from the State Treasury~~[-]~~ in another capacity~~[-]~~ shall receive an amount equal to the per diem compensation paid to members of the General Assembly for each day they are in session. All members shall be reimbursed for their necessary expenses.

Section 6. KRS 21.580 is amended to read as follows:

- (1) As a pilot project to determine the effectiveness of using senior retired judges to combat backlog and delay in Kentucky courts, there is hereby created a "Senior Status Program for Special Judges." The program shall be implemented as follows:
 - (a) KRS 21.400(1) and any other provision in KRS Chapter 21 to the contrary notwithstanding, a member who retires at a time when combining his total years of judicial service credit and his age equals or exceeds the number seventy-five (75), may elect, within ninety (90) days following retirement, to participate in the "Senior Status Program for Special Judges," if he complies with the provisions of this subsection. In that event, the member shall be entitled to a service retirement allowance, commencing at the member's normal retirement age, payable monthly during his lifetime in an amount equal to five percent (5%) of his final compensation multiplied by the number of years of his judicial service, not to exceed twenty (20) years of judicial service at the five percent (5%) factor, not to exceed one hundred percent (100%) of final compensation. "Final compensation", notwithstanding any provision to the contrary, for all members retiring under any provision of KRS 21.345 to 21.570 or this section, or similar statutes governing the same positions, as defined in KRS 21.400 shall be based on a period of thirty-six (36) months. Any nonjudicial time shall be counted as is otherwise provided in KRS Chapter 21, but in no event shall service retirement allowance exceed one hundred percent (100%) of final compensation.
 - 1. In the event the retiring judge elects to retire as a "Senior Status Special Judge" under this subsection, he shall commit to serve, upon appointment by the Chief Justice of the Commonwealth, as special judge for one hundred twenty (120) work days per year for a term of five (5) years without compensation other than the retirement benefits under this subsection. The Senior Status Special Judge may agree to work more than one hundred twenty (120) days in any year within the five (5) years of service; however, the Senior Status Special Judge shall be compensated as otherwise provided by law, in addition to his retirement benefits, for any days served in excess of one hundred twenty (120) in that year. If the Senior Status Special Judge has not served a total of six hundred (600) days within the five (5) year period outlined in this subsection, the Chief Justice shall require the Senior Status Special Judge to serve at no additional compensation to the Senior Status Special Judge, until the six hundred (600) day period is served by the Senior Status Special Judge. The Senior Status Special Judge and the

Chief Justice may agree in writing to serve less than the one hundred twenty (120) days in any one (1) or more of the five (5) years; however, any of the days not served in a given year shall be served at the end of the five (5) year period set forth in this subsection.

2. Should any member electing to retire under the Senior Status Program for Special Judges fail, when ordered by the Chief Justice to serve the requisite number of days not to exceed one hundred twenty (120) days a year for the five (5) year period outlined in this subsection, unless otherwise agreed in writing, he shall no longer be eligible for benefits computed under this subsection and shall return to the benefits otherwise provided under this chapter.
 3. Subject to Section 110(5)(b) of the Kentucky Constitution, the Chief Justice shall give due regard, when practical, to the desirability of appointing Senior Status Special Judges to serve within their judicial region as defined by the regional administration charter.
- (b) The inviolable contract provisions of Kentucky law, KRS 21.480, shall apply during the period of time that KRS 21.580 is effective; however, no other provisions of 2000 Ky. Acts ch. 305 shall be considered subject to an inviolable contract of the Commonwealth.
 - (c) Nothing contained in this section shall be construed to invalidate provisions in the current law which require a penalty for retiring before the normal retirement age.
- (2) The Senior Status Program for Special Judges created by this section shall be open to any member who is a judge in office on ***the effective date of this Act*** ~~July 14, 2000~~, and who subsequently retires as a Senior Status Special Judge on or before January 31, 2009.

Approved March 18, 2003

CHAPTER 129

(HB 370)

AN ACT relating to state employee health insurance and declaring an emergency.

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

Section 1. 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 "employee" for purposes of this section means:
 1. Any person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state government; or by a public postsecondary educational institution; or by any city, urban-county, charter county, county, or consolidated local government, whose legislative body has opted to participate in the state-sponsored health insurance program pursuant to KRS 79.080; and who is either a contributing member to any one (1) of the retirement systems administered by the state, including but not limited to the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan; or is receiving a contractual contribution from the state toward a retirement plan; or, in the case of a public postsecondary education institution, is an individual participating in an optional retirement plan authorized by KRS 161.567;
 2. Any certified or classified employee of a local board of education;
 3. Any person who is a present or future recipient of a retirement allowance from the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, {

~~or~~ the Judicial Retirement Plan, *or the Kentucky Community and Technical College System's optional retirement plan authorized by KRS 161.567*, except that a person who is receiving a retirement allowance and who is age sixty-five (65) or older shall not be included, with the exception of persons covered under KRS 61.702(4)(c), unless he or she is actively employed pursuant to subparagraph 1. of this paragraph; and

4. Any eligible dependents and beneficiaries of participating employees and retirees who are entitled to participate in the state-sponsored health insurance program.
- (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, that may include but not be limited to 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 employees. With the exception of employers governed by the provisions of KRS Chapters 16, 18A, and 151B, all employers of any class of employees or former employees shall enter into a contract with the Personnel Cabinet prior to including that group in the state health insurance group. The contracts shall include but not be limited to designating the entity responsible for filing any federal forms, adoption of policies required for proper plan administration, acceptance of the contractual provisions with health insurance carriers or third-party administrators, and adoption of the payment and reimbursement methods necessary for efficient administration of the health insurance program. 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, and shall include a mail-order drug option as provided in subsection (14) of this section. All 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 Commonwealth 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.
 - (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 employees shall agree to provide coverage to all members of the state group, including active employees and retirees and their eligible covered dependents and beneficiaries, within the county or counties specified in its bid. ***Except as provided in subsection (18) of this section***~~Furthermore~~, any carrier bidding to offer health care coverage to employees shall also agree to rate all employees as a single entity, except for those retirees whose former employers insure their active employees outside the state-sponsored health insurance program.
 - (d) Any carrier bidding to offer health care coverage to employees 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 with data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual employee; 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 include in the October annual report submitted pursuant to the provisions of KRS 18A.226 to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, an analysis of the financial stability of the program, which shall include but not be limited to loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, 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-sponsored employee health insurance program for its active employees terminates participation and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, then neither the agency nor the employees shall receive the state-funded contribution after termination from the state-sponsored 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-sponsored health insurance plan's appropriation account.
 - (h) Each entity participating in the state-sponsored health insurance program shall provide an amount at least equal to the state contribution rate for the employer portion of the health insurance premium. For any participating entity that used the state payroll system, the employer contribution amount shall be equal to but not greater than the state contribution rate.
- (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 employees. All 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 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 employee, by payroll deduction or otherwise;
 - (b) Wholly from funds contributed by any department, board, agency, public postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local 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, postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local 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 Commonwealth 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, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local 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, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local 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, and continuation of insurance or coverage after retirement.
- (8) Group rates under this section shall be made available to the disabled child of an 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.

- (9) The health care contract or contracts for employees shall be entered into for a period of not less than one (1) year.
- (10) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state-sponsored health insurance program for 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, two (2) members from a list of five (5) names submitted by the Kentucky Association of Counties, two (2) members from a list of five (5) names submitted by the Kentucky League of Cities, 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.
- (11) Notwithstanding any other provision of law to the contrary, the policy or policies provided to 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 employees or their dependents.
- (12) 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 Department of Insurance, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.
- (13) Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse or beneficiary of a retiree, under any one (1) of the state-sponsored retirement systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of any other employment for which there is a public employer contribution. This does not preclude a retiree and an active employee spouse from using both contributions to the extent needed for purchase of one (1) state sponsored health insurance policy for that plan year.
- (14)
 - (a) The policies of health insurance coverage procured under subsection (2) of this section shall include a mail-order drug option for maintenance drugs for state employees. Maintenance drugs may be dispensed by mail order in accordance with Kentucky law.
 - (b) A health insurer shall not discriminate against any retail pharmacy located within the geographic coverage area of the health benefit plan and that meets the terms and conditions for participation established by the insurer, including price, dispensing fee, and copay requirements of a mail-order option. The retail pharmacy shall not be required to dispense by mail.
 - (c) The mail-order option shall not permit the dispensing of a controlled substance classified in Schedule II.
- (15) The policy or policies provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining a hearing aid and acquiring hearing aid-related services for insured individuals under eighteen (18) years of age, subject to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months.
- (16) If a state employee's residence and place of employment are in the same county, and if the hospital located within that county does not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services and magnetic resonance imaging services, the employee may select a plan available in a contiguous county that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.
- (17) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and in the best interests of the state group to allow any carrier bidding to offer health care coverage under this section to submit bids that may vary county by county or by larger geographic areas.
- (18) *Notwithstanding any other provision of this section, the bid for proposals for health insurance coverage for calendar year 2004 shall include a bid scenario that reflects the statewide rating structure provided in*

calendar year 2003 and a bid scenario that allows for a regional rating structure that allows carriers to submit bids that may vary by region for a given product offering as described in this subsection:

- (a) The regional rating bid scenario shall not include a request for bid on a statewide option;*
- (b) The Personnel Cabinet shall divide the state into geographical regions which shall be the same as the partnership regions designated by the Department for Medicaid Services for purposes of the Kentucky Health Care Partnership Program established pursuant to 907 KAR 1:705;*
- (c) The request for proposal shall require a carrier's bid to include every county within the region or regions for which the bid is submitted and include, but not be restricted to, a preferred provider organization (PPO) option;*
- (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the carrier all of the counties included in its bid within the region. If the Personnel Cabinet deems the bids submitted in accordance with this subsection to be in the best interests of state employees in a region, the cabinet may award the contract for that region to no more than two (2) carriers; and*
- (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including other requirements or criteria in the request for proposal.*

Section 2. Whereas regional rating may increase the number of carriers in a county at a time when the number of counties with only one (1) carrier bidding is increasing each contract year, and the Personnel Cabinet is currently in the process of preparing its request for proposals for the 2004 calendar year, 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 18, 2003

CHAPTER 130

(HB 373)

AN ACT relating to rural electric cooperative corporations.

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

Section 1. KRS 279.080 is amended to read as follows:

- (1) Each corporation formed under this chapter shall have a board of directors of not less than five (5) members, which shall be the governing body of the corporation. Unless otherwise provided in the articles of incorporation, directors need not be members of the corporation. The directors, other than those named in the articles of incorporation, shall be elected annually or as provided for in the bylaws, but no director shall be elected for a longer term than ~~four (4)~~^{three (3)} years. The directors shall be elected in a manner to insure secrecy and anonymity of ballots cast, provided the result of such election is determined by ballot vote. The directors shall receive such compensation and reimbursement of expenses as the bylaws provide. When a vacancy on the board of directors occurs other than by expiration of a term, the remaining members of the board, by a majority vote, shall fill the vacancy for the remainder of the term by appointment, unless the bylaws otherwise provide.
- (2) Subject to the provisions of the articles of incorporation and the bylaws, the board of directors may adopt rules and regulations governing the procedure of the board and the operations of the corporation, and shall manage and conduct the business and affairs of the corporation.
- (3) The officers of a corporation shall consist of a president, a secretary, and a treasurer, each of whom shall be elected by the board of directors at such time and in such manner as may be prescribed by the bylaws. Such other officers and assistant officers and agents as may be deemed necessary may be elected or appointed by the board of directors or chosen in such other manner as may be prescribed by the bylaws. Any two (2) or more offices may be held by the same person, except that the offices of the president and secretary may not be held by the same person. All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the corporation as may be provided in the bylaws, or as may be determined by resolution of the board of directors not inconsistent with the bylaws.

- (4) Every officer, employee, or agent handling funds, securities, or negotiable instruments of or for any corporation created under this chapter shall be required to execute an adequate bond for the faithful performance of his duties in an amount and with security approved by the board.

Approved March 18, 2003

CHAPTER 131

(HB 376)

AN ACT relating to library science scholarships.

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

Section 1. KRS 171.303 is amended to read as follows:

- (1) There is hereby established a Library Science Scholarship Fund.
- (2) The state librarian may grant scholarships for study in library science at an institution within the Commonwealth which is accredited by the American Library Association, *the National Council for the Accreditation of Teacher Education or the appropriate regional postsecondary education accrediting organization*~~for the Southern Association of Colleges and Secondary Schools~~. *Scholarships may also be granted for study in an accredited library education program offered via distant learning technologies. Students applying for library education programs at institutions outside the Commonwealth that are likewise accredited may apply for assistance under this program if they agree to work in a library or archival services program within the Commonwealth upon their graduation in accordance with Section 2 of this Act.*
- (3) The state librarian shall *establish a Library Science Scholarship Fund Advisory Committee that will* receive and consider all applications for scholarships for study in library science *and shall advise the state librarian on the awarding of scholarships according to criteria they establish for this purpose*~~and may grant a scholarship to applicants who are residents of this Commonwealth and who are deemed by the state librarian to be qualified. The state librarian shall make a careful and full investigation of the ability, character and qualifications of each applicant and may personally examine each applicant. The state librarian shall, whenever possible, grant financial assistance to the applicants with the greatest financial need, provided such persons are found to possess such qualities as give reasonable assurance of their successfully completing the course of study made possible by the scholarship~~.
- (4) *The department is authorized to receive money from any state, federal, private or other legal funding source approved by the appropriate state agency for scholarship purposes, and the amounts of individual scholarships shall be determined by the state librarian on the advice of the Library Science Scholarship Fund Advisory Committee, which shall set criteria for the assistance. Money designated for this fund shall be held in a restricted account and shall not lapse to the general fund.*

Section 2. KRS 171.306 is amended to read as follows:

- (1) To be eligible for a scholarship, an applicant shall contract in writing with the state librarian that he *or she* will *graduate in an agreed to period of time and*~~and~~ within six (6) months from the date *of completing the program*~~he completes his term~~ of study, accept employment with a library *or archival services* program approved by the state librarian for a period *of at least two (2) years*~~to be computed at the rate of one (1) year for each \$1,000 received, or proportional time for less amounts~~. *The recipient shall agree to the terms of employment established by the employing library or archival services program.*
- (2) If the recipient of a scholarship fails to fulfill ~~the~~*his* obligations *agreed to* under the contract for a scholarship the entire amount of scholarship benefits received~~less credit for time actually employed in an approved program plus six percent (6%) interest thereon~~ shall become *immediately* due and payable *to the Library Science Scholarship Fund. Repayment of benefits received under this program shall be due in a lump sum or through a payment schedule determined by the state librarian on the advice of the Library Science Scholarship Fund Advisory Committee, and in accordance with current interest rates applicable to similar debts collected by other financial assistance entities.*
- (3) Upon recommendation of the state librarian, the Attorney General shall institute proceedings for the purpose of recovering any amount due the Commonwealth under the provisions of this section.

~~{(4) The state librarian may terminate employment of a scholarship recipient if the performance of the recipient is found to be unsatisfactory. In such a case, if the obligations of the recipient are not completely fulfilled they are canceled.}~~

Approved March 18, 2003

CHAPTER 132

(HB 392)

AN ACT relating to the journals of each house of the General Assembly.

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

Section 1. KRS 57.310 is amended to read as follows:

- (1) ***Subject to subsections (2) and (3) of this section,*** the following officers and libraries are entitled free of charge to copies of the journals of each house of the General Assembly, as they are published: each member of the General Assembly, one (1) copy for the session in which he served; the law library of each county, one (1) copy; the Governor and Secretary of State, one (1) copy each; the State Law Library, two (2) copies; the Legislative Research Commission, five (5) copies for the use of the Senate and five (5) copies for the use of the House of Representatives; the law library of the University of Kentucky, the law library of the University of Louisville, the Library of Congress, the Kentucky Historical Society, the Department for Libraries and Archives, and each of the state universities in Kentucky, two (2) copies each.
- (2) ***Prior to printing the journals, the Legislative Research Commission shall inquire of those entitled to a free copy of the journals under subsection (1) of this section:***
 - (a) ***Whether the officer or library wishes to receive the free copy or copies to which entitled; and***
 - (b) ***If the officer or library desires to receive a free copy, whether the officer or library prefers to receive it in print or electronic format.***
- (3) ***Unless those entitled to a free copy of the journals respond affirmatively to the inquiry required by subsection (2) of this section, they shall not receive a free copy or copies of the journals.***

Approved March 18, 2003

CHAPTER 133

(HB 412)

AN ACT relating to State Police promotions.

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

Section 1. KRS 16.055 is amended to read as follows:

- (1) Promotions to sergeant within the department shall be on the following terms and conditions:
 - (a) The applicant must have served as a commissioned State Police officer for a period of ***six (6)***~~{five (5)}~~ years to be eligible for promotion to sergeant;
 - (b) Promotions shall be based on ~~{the highest}~~ cumulative ***scores***~~{score}~~ computed from ***twenty***~~{thirty}~~ percent ***(20%)***~~{(30%)}~~ on personnel performance evaluation, ***forty***~~{twenty}~~ percent ***(40%)***~~{(20%)}~~ on ***job simulation***~~{oral}~~ examination, and ***forty***~~{fifty}~~ percent ***(40%)***~~{(50%)}~~ on a written examination;
 - (c) The promotional list shall continue in existence for one (1) year, ***shall consist of the numerical scores and rankings of each applicant,*** and promotions shall be made in consecutive order beginning with the highest numerical ranking to fill an interim vacancy. When two (2) or more applicants receive the same numerical score, the order of placement on the list shall be determined by seniority of service. Upon the determination of a new numerical ranking following a new examination, all previous rankings shall be null and void;

- (d) The written examination shall be prepared and administered by an individual designated by the commissioner. The materials and textbooks will be selected by the commissioner and his staff. The commissioner will inform all applicants at least three (3) months prior to the examination date of the exact material from which test questions will be taken;
 - (e) The written test shall be administered to all applicants at the same time. Immediately upon completion of the written test the applicant will receive his numerical score. Such numerical score shall remain valid for a period of two (2) years following the date of examination unless the source material upon which the test is based is changed by more than thirty percent (30%);
 - (f) The ~~job simulation~~~~oral~~ examination shall be **evaluated**~~conducted~~ by ~~interview~~ boards designated by the commissioner consisting of the commissioner or his designated appointee not lower than rank of captain, an officer from another police agency of the rank equal to the position for which the applicant is competing, an instructor from an accredited law enforcement education program, a personnel director from private industry, and an officer from the Kentucky State Police of the rank equal to the position for which the applicant is competing;
 - (g) The designated ~~job simulation examination~~~~oral~~ boards will perform all **evaluations**~~interviews~~ under guidelines developed and approved by the commissioner; and
 - (h) Personnel evaluations shall be made by the appropriate supervisory personnel under procedures established and approved by the commissioner.
- (2) Promotions from sergeant to lieutenant within the department shall be on the same terms and conditions as promotions to sergeant. In addition, any applicant for lieutenant must have completed at least **three (3) years**~~one (1) year~~ of continuous service in grade as sergeant.
 - (3) Promotions from lieutenant to captain within the department shall be on the same terms and conditions as promotions to lieutenant. In addition, any applicant for captain must have completed at least **three (3) years**~~one (1) year~~ of continuous service in grade as lieutenant.
 - (4) The department will develop and administer only one (1) test for each of the above ranks. All eligible applicants will be permitted to participate in the promotional process to the next highest position of responsibility wherever a vacancy exists.
 - (5) ***Officers promoted to rank of sergeant, lieutenant, or captain shall serve a probationary period for one (1) year from the effective date of their promotions, and may be reverted to their previous rank with or without cause at any time during this period.***
 - (6) The provisions of KRS 16.140 to the contrary notwithstanding, all ranks above the grade of captain are temporary and shall not be subject to the provisions for selection and promotion as required herein. All officers in such temporary positions shall serve at the pleasure of the commissioner and shall revert to their previous permanent rank upon the termination of their temporary appointment.
 - (7)~~(6)~~ The total number of supervisory officers of all classifications shall be limited to a ratio not to exceed one (1) supervisor for every five (5) nonsupervisory officers.
 - (8)~~(7)~~ No officer of the department, other than temporary positions above the rank of captain, shall be promoted to the next highest rank without competing with other officers as prescribed by this promotional procedure.
 - (9)~~(8)~~ There shall be no discrimination based on race, sex, age, national origin, color, religion, creed, or political affiliation with respect to the department promotional system. All personnel actions are to be based solely on merit.

Approved March 18, 2003

CHAPTER 134

(HB 418)

AN ACT relating to manufactured home installers.

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

Section 1. KRS 227.560 is amended to read as follows:

- (1) There is hereby created the Manufactured Home Certification and Licensure Board which shall issue certificates of acceptability to qualifying manufacturers and licenses to dealers.
- (2) The board shall consist of the state fire marshal, the secretary of the Transportation Cabinet, the commissioner of the Department for Public Health, or their designees, and ~~seven (7)~~ ~~[six (6)]~~ citizens of the Commonwealth appointed by the Governor, which shall include three (3) manufactured or mobile home dealers, ***one (1) certified manufactured or mobile home installer***, and three (3) members who shall have no interest in the industry to be regulated.
- (3) The state fire marshal, the secretary of the Transportation Cabinet, and the commissioner of the Department for Public Health shall be permanent members of the board, by virtue of their respective offices. The appointed members of the board shall hold office for terms of four (4) years with their terms expiring on September 1 of even-numbered years. Each member shall hold office until his ***or her*** successor is appointed and has qualified.
- (4) In the initial appointments to the board, the Governor shall designate three (3) members to serve for two (2) years, and three (3) to serve for four (4) years. ***In the initial appointment of the certified manufactured or mobile home installer to the board, the Governor shall designate the member to serve for a term expiring September 1, 2004.***
- (5) If a vacancy occurs in the office of one (1) of the members of the board, the position shall be filled by a person appointed by the Governor, and the person so appointed shall serve only to the end of the unexpired term.
- (6) The chairman of the board shall be ***elected by the board*** ~~the state fire marshal~~. In the event of the chairman's absence or disability, the members of the board shall elect a temporary chairman by a majority vote of those present at a meeting.
- (7) Each appointed member shall be entitled to fifty dollars (\$50) for each day he is in attendance at meetings or hearings or on authorized business of the board, including time spent in traveling to and from the place of the meeting, hearing, or other authorized business. Each member of the board shall also be entitled to reimbursement for travel and other necessary expenses incurred in performing official duties.
- (8) The chairman, or in his absence a temporary chairman selected by the members of the board present at the meeting, shall preside at all meetings of the board. The board shall have regular meetings at times specified by a majority vote of the board. The chairman may call special meetings at any time. He shall call a special meeting on written request by two (2) or more members of the board. A majority of the board shall constitute a quorum to transact business.
- (9) All staff assistance deemed necessary by the board to carry out the functions and duties assigned to it in KRS 227.550 to 227.660 shall be provided by the office and shall function under the supervision of the administrative head of the office.

Approved March 18, 2003

CHAPTER 135

(HB 442)

AN ACT relating to the collection of debts by the Revenue Cabinet.

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

Section 1. KRS 131.130 is amended to read as follows:

Without limitation of other duties assigned to it by law, the following powers and duties are vested in the Revenue Cabinet:

- (1) The cabinet may make administrative regulations, and direct proceedings and actions, for the administration and enforcement of all tax laws of this state.
- (2) The cabinet, by representatives appointed by it in writing, may take testimony or depositions, and may examine the records, documents, files, and equipment of any taxpayer or of any person whose records, documents, or equipment will furnish knowledge concerning the tax liability of any taxpayer, when it deems this reasonably

necessary for purposes incident to the performance of its functions. The cabinet may enforce this right by application to the Circuit Court in the county wherein the person is domiciled or has his principal office, or by application to the Franklin Circuit Court, which courts may compel compliance with the orders of the cabinet.

- (3) The cabinet shall prescribe the style, and determine and enforce the use or manner of keeping, of all assessment and tax forms and records employed by state and county officials, and may prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation pursuant to KRS Chapter 13A incorporating the forms by reference.
- (4) The cabinet shall advise on all questions respecting the construction of state revenue laws and the application thereof to various classes of taxpayers and property.
- (5) Attorneys employed by the cabinet and approved by the Attorney General as provided in KRS 15.020 may prosecute all violations of the criminal and penal laws relating to revenue and taxation. If a Revenue Cabinet attorney undertakes any of the actions prescribed in this subsection, he shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including but not limited to the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.
- (6) In the event of the incapacity of attorneys employed by the cabinet or at the request of the secretary of the Revenue Cabinet, the Attorney General or his designee shall prosecute all violations of the criminal and penal laws relating to revenue and taxation. If the Attorney General undertakes any of the actions prescribed in this subsection, he shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including but not limited to the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.
- (7) The cabinet may require the Commonwealth's attorneys and county attorneys to prosecute actions and proceedings and perform other services incident to the enforcement of laws assigned to the cabinet for administration.
- (8) The cabinet may conduct research in the fields of taxation, finance, and local government administration, and publish its findings, as the secretary may deem wise.
- (9) The cabinet may make administrative regulations necessary to establish a system of taxpayer identifying numbers for the purpose of securing proper identification of taxpayers subject to any tax laws or other revenue measure of this state, and may require such taxpayer to place on any return, report, statement, or other document required to be filed, any number assigned pursuant to such administrative regulations.
- (10) The cabinet may, when it is in the best interest of the Commonwealth and helpful to the efficient and effective enforcement, administration, or collection of sales and use tax, motor fuels tax, or the petroleum environmental assurance fee, enter into agreements with out-of-state retailers or other persons for the collection and remittance of sales and use tax, the motor fuels tax, or the petroleum environmental assurance fee.
- (11) The cabinet may enter into annual memoranda of agreement with ***any state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization***~~[the Cabinet for Families and Children]~~ to assume the collection duties for ***any liquidated debts due the state entity***~~[support obligations]~~ and may renew that agreement for up to five (5) years. Under such an agreement, the cabinet shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of ***those liquidated debts***~~[support obligations]~~ as provided under:
 - (a) KRS Chapters 131, 134, and 135 for the collection, refund, and administration of delinquent taxes; and
 - (b) ***Any applicable statutory provisions governing the state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization***~~[KRS Chapters 205 and 405]~~ for the collection, refund, and administration of ***any liquidated debts due the state entity***~~[support obligations by the Cabinet for Families and Children]~~.

Approved March 18, 2003

CHAPTER 136**(HB 443)**

AN ACT relating to health maintenance organizations.

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

Section 1. KRS 304.38-070 is amended to read as follows:

- (1) This subsection applies to a corporation or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization:
 - (a) Except as provided in paragraph (b) of this subsection, to qualify for authority to act as a health maintenance organization, a corporation or limited liability corporation shall possess and thereafter maintain unimpaired paid-in capital stock of one million dollars (\$1,000,000), and, when first so authorized, shall possess initial free surplus of not less than two million dollars (\$2,000,000);
 - (b) A corporation holding a valid certificate of authority to transact business as a health maintenance organization in Kentucky immediately prior to July 15, 1986, may, if otherwise qualified therefor, continue to be so authorized while meeting the requirements for protection against insolvency required for such authority immediately prior to July 15, 1986. Notwithstanding the other provisions hereof, the exception provided in this paragraph shall cease to apply to any such health maintenance organization from and after the date it has accumulated capital and surplus equal to or in excess of the capital and surplus required by paragraph (a) of this subsection; and
 - (c) Each corporation authorized as a health maintenance organization shall at all times maintain bona fide additional surplus in the amount of two hundred fifty thousand dollars (\$250,000) and shall at all times comply with the risk-based capital requirements as established in administrative regulations promulgated by the commissioner. A corporation holding a valid certificate of authority to transact business as a health maintenance organization in Kentucky immediately prior to July 15, 1986, may, if otherwise qualified therefor, continue to be so authorized while meeting the requirements for protection against insolvency as required for such authority immediately prior to July 15, 1986. The exception provided in this paragraph shall cease to apply to any such health maintenance organization from and after the date upon which it has accumulated additional surplus equal to or in excess of the additional surplus required by this subsection.
- (2) This subsection applies to a partnership applying for or holding a certificate of authority as a health maintenance organization:
 - (a) Except as provided in paragraph (b) of this subsection, to qualify for authority to act as a health maintenance organization, a partnership shall possess, when first so authorized, a total of at least three million dollars (\$3,000,000) in its capital accounts. Thereafter, a partnership authorized as a health maintenance organization shall possess and maintain a total of at least one million two hundred fifty thousand dollars (\$1,250,000) in its capital accounts and shall comply at all times with the risk-based capital requirement established in administrative regulations promulgated by the commissioner;
 - (b) A partnership holding a valid certificate of authority to transact business as a health maintenance organization in Kentucky immediately prior to July 15, 1986, may, if otherwise qualified therefor, continue to be so authorized while meeting the requirements for protection against insolvency required for such authority immediately prior to July 15, 1986. The exception provided for in this paragraph shall cease to apply to any such health maintenance organization from and after the date upon which the total of the funds which it has accumulated in its capital accounts equal or exceed the total of the funds in its capital accounts required by this subsection.
- (3) ***A corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization which by contract manages care and processes health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program shall comply with risk-based capital (RBC) requirements as follows:***
 - (a) ***For purposes of this subsection, risk-based capital shall be determined in accordance with the risk-based capital requirements for health maintenance organizations established under this subtitle and***

any administrative regulation promulgated pursuant to KRS Chapter 13A, except as otherwise provided in this subsection. A corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization which by contract manages care and processes health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program shall comply with the same risk-based capital requirements as other health maintenance organizations, except that no additional phase-in or risk-based capital reports shall be required for 2000 or 2001, and the risk-based capital levels shall be established in accordance with paragraph (b) of this subsection;

- (b) *For the risk-based capital reports required to be filed by health maintenance organizations which manage care and process health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program, the risk-based capital levels shall be defined as follows:*
 - 1. *"Company Action Level RBC" means the product of two (2.0) and its Authorized Control Level RBC;*
 - 2. *"Regulatory Action Level RBC" means the product of one and five-tenths (1.5) and its Authorized Control Level RBC;*
 - 3. *"Authorized Control Level RBC" means the product of four-tenths (.40) and the risk-based capital after covariance determined under the risk-based capital formula in accordance with the RBC instruction; and*
 - 4. *"Mandatory Control Level RBC" means the product of seven-tenths (.70) and the Authorized Control Level RBC; and*
- (c) *A corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization managing care, processing health care claims, or providing health benefits to groups or individuals in addition to Medicaid-eligible and Kentucky Children's Health Insurance Program enrollees shall comply with the risk-based capital requirements of subsection (1) of this section and this subtitle, and shall not be eligible to calculate its risk-based capital according to this subsection.*

Approved March 18, 2003

CHAPTER 137

(HB 517)

AN ACT relating to estheticians.

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

SECTION 1. KRS CHAPTER 317B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 11 of this Act, unless the context otherwise requires:

- (1) *"Board" means the Kentucky Board of Hairdressers and Cosmetologists, created in KRS 317A.030;*
- (2) *"Esthetician" means a person who is licensed by the board to engage in esthetic practices in the Commonwealth of Kentucky;*
- (3) (a) *"Esthetic practices" means one (1) or more of the following acts:*
 - 1. *Giving facials, including consultation and skin analysis;*
 - 2. *Providing makeup artistry, including corrective and camouflage techniques;*
 - 3. *Giving skin care;*
 - 4. *Removing facial hair by tweezing or waxing;*
 - 5. *Beautifying or cleaning the body with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams; or*
 - 6. *Providing preoperative and postoperative esthetic skin care, either referred by or supervised by a medical professional;*

(b) *Except when these acts are performed incident to:*

1. *Treatment of an illness or a disease;*
2. *Work as a student in a board approved school;*
3. *Work without compensation from the person receiving the service; or*
4. *Work performed by a licensed massage therapist; and*

(4) *"Esthetic salon" means a place where an esthetician performs esthetic practices.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 317B IS CREATED TO READ AS FOLLOWS:

- (1) *Estheticians practicing under Sections 1 to 11 of this Act shall not perform any of the following: Botox or collagen injections, laser treatments, electrolysis, tattoo, permanent makeup, microdermabrasion, or piercing unless practicing under the immediate supervision of a licensed physician.*
- (2) *The provisions of Sections 1 to 11 of this Act shall not apply to any other person licensed, certified, or registered under any other chapter of the Kentucky Revised Statutes, or any student within an accredited training program of any of these professions. Nothing in Sections 1 to 11 of this Act shall be construed to limit, interfere, or restrict the practice, descriptions of services, or manner in which that person holds himself or herself out to the public so long as that person does not hold himself or herself out as an esthetician unless that person is licensed as an esthetician under Sections 1 to 11 of this Act.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 317B IS CREATED TO READ AS FOLLOWS:

- (1) *The board shall administer and enforce the provisions of Sections 1 to 11 of this Act and shall evaluate the qualifications of applicants for licensure and the issuance of licenses.*
- (2) *The board may employ inspectors, staff, and other personnel as reasonably necessary to carry out the provisions of Sections 1 to 11 of this Act. The compensation shall be established by the board.*
- (3) *The board may promulgate administrative regulations, including but not limited to administrative regulations that:*
 - (a) *Protect the health and safety of the public;*
 - (b) *Protect the public against incompetent or unethical practice, misrepresentation, deceit, or fraud in the practice of esthetics or teaching of esthetic practices;*
 - (c) *Set standards for the operation of the schools and salons;*
 - (d) *Protect the students;*
 - (e) *Establish the quality of equipment, supplies, materials, records, and furnishings required in esthetic salons or classrooms;*
 - (f) *Establish course work and conduct of school owners, instructors, estheticians, esthetic salons, and cosmetology schools conducting classes in esthetic practices;*
 - (g) *Set the requirements for the proper education and training of students;*
 - (h) *Establish the qualifications of instructors of esthetic practices;*
 - (i) *Set standards for the hours and courses of instruction in esthetic practices;*
 - (j) *Establish the examinations of applicants for licenses;*
 - (k) *Establish a code of ethics for persons licensed by the board; and*
 - (l) *Establish fees required pursuant to Sections 1 to 11 of this Act.*
- (4) *Administrative regulations pertaining to health and sanitation shall be approved by the Department for Health Services before becoming effective.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 317B IS CREATED TO READ AS FOLLOWS:

- (1) *The board shall issue an esthetician license to any person who:*
 - (a) *Is of good moral character and temperate habit;*

- (b) *Is at least eighteen (18) years of age;*
 - (c) *Has a high school education or equivalent;*
 - (d) *Has satisfactorily completed one thousand (1,000) hours of instruction in a licensed school approved by the board;*
 - (e) *Has received a satisfactory grade on an examination prescribed by the board to determine fitness to practice as an esthetician; and*
 - (f) *Has paid a fee of at least seventy-five dollars (\$75) to be adjusted as needed in administrative regulations promulgated by the board.*
- (2) *The board may issue a license to a cosmetologist who seeks dual licensure as an esthetician by offering a dual cosmetologist and esthetician license to individuals who meet licensure criteria for a cosmetologist as in KRS Chapter 317A and licensure criteria for an esthetician as in Sections 1 to 11 of this Act. The fee for the dual license and continuing education required for license renewal shall be determined by the board as promulgated in administrative regulations. Nothing in Sections 1 to 11 of this Act shall prohibit separate licensure of cosmetologists and estheticians.*
- (3) *The board shall issue licenses as follows:*
- (a) *A license to operate an esthetic salon shall be issued to any licensed esthetician upon receipt of:*
 - 1. *The completed application; and*
 - 2. *A fee of at least one hundred twenty-five dollars (\$125) to be adjusted as needed in administrative regulations promulgated by the board.*
 - (b) *If an owner is not a licensed esthetician, the owner shall have a licensed esthetician manage the esthetic salon at all times. A new license shall be purchased if the salon's owner, manager, or location changes.*
 - (c) *Licensed esthetic salons shall have the furnishings and salon equipment required pursuant to administrative regulations adopted by the board.*
 - (d) *Any licensed esthetician who leases or rents space or pays a fee to do business in a beauty salon or esthetic salon shall be considered an independent owner and shall meet the qualifications for the respective salon owner as set out in paragraphs (a), (b), and (c) of this subsection.*
 - (e) *The board may refuse to issue a license if the applicant fails to comply with the provisions of Sections 1 to 11 of this Act or the administrative regulations promulgated by the board.*
- (4) *The board shall issue a license to teach esthetic practices to any person who:*
- (a) *Is of good moral character and temperate habit;*
 - (b) *Is at least eighteen (18) years of age;*
 - (c) *Has a high school education or equivalent;*
 - (d) *Holds a current cosmetologist and instructor's license;*
 - (e) *Has completed eight (8) continuing education hours in esthetics or has completed fifty (50) hours in esthetics training within the last two (2) years;*
 - (f) *Has received a satisfactory grade on the examination for the teaching of esthetics as prescribed by the board; and*
 - (g) *Has paid a fee promulgated by the board in administrative regulations.*
- (5) *The board may issue a license to teach esthetic practices to an individual with two (2) or more years' experience in teaching esthetic practices in another jurisdiction who meets the requirements of paragraphs (a), (b), and (c) of subsection (3) of this section.*
- (6) *Courses in esthetic practices may be taught at any licensed cosmetology school that complies with the administrative regulations promulgated by the board under Sections 1 to 11 of this Act.*

- (7) *Applications for esthetician examinations required by this section shall be accompanied by an examination fee of at least one hundred twenty-five dollars (\$125) to be adjusted as needed in administrative regulations promulgated by the board.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 317B IS CREATED TO READ AS FOLLOWS:

- (1) *Licenses issued by the board under Sections 1 to 11 of this Act shall be renewed between July 1 and July 31 of each year, if the applicant provides proof of continuing education as determined by the board by promulgation of an administrative regulation.*
- (a) *Estheticians shall provide proof of six (6) clock hours of continuing education.*
- (b) *Instructors of esthetic practices shall provide proof of eight (8) clock hours of continuing education.*
- (c) *Continuing education credit may be earned in other states and countries that license estheticians, if approved by the board.*
- (2) *All applications for license renewal shall comply with the provisions of Sections 1 to 11 of this Act and the administrative regulations promulgated by the board.*
- (3) *Any license application postmarked after July 31 shall be considered expired. The board shall promulgate through administrative regulations the appropriate restoration fee based on length of time a license has been expired for a period up to five (5) years. After five (5) years, restoration fees shall be required in addition to an examination, additional course work, or both.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 317B IS CREATED TO READ AS FOLLOWS:

- (1) *No examination or part of any examination required by Sections 1 to 11 of this Act shall be given unless a quorum of the board is present to supervise that examination.*
- (2) *Examinations given by the board shall cover all phases of the applicant's qualifications for the particular license, including the skill and technique of the applicant, as well as scientific and other knowledge.*
- (3) *Examinations shall be given at regularly prescribed intervals as set by the board.*
- (4) *Examinations shall be given at the principal office of the board or at a location approved by the board.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 317B IS CREATED TO READ AS FOLLOWS:

- (1) *The board may promulgate administrative regulations pertaining to the issuance of a license, upon payment of the prescribed license fee, to any person holding a comparable license issued by another state or country where the laws of that state or country, in the opinion of the board, provide comparable professional qualification, health, and safety standards.*
- (2) *Notwithstanding the provisions of subsection (1) of this section, a license to operate or practice in this state may be refused or denied a holder of a license issued by another state if that state does not extend to the holder of a Kentucky license similar or comparable recognition and opportunity.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 317B IS CREATED TO READ AS FOLLOWS:

- (1) *The board may refuse to issue or renew a license, or may suspend, revoke, impose probationary conditions upon, impose an administrative fine, issue a written reprimand or admonishment, or any combination thereof regarding proof of any applicant's or licensee's:*
- (a) *Conviction of a felony;*
- (b) *Gross malpractice or incompetence;*
- (c) *Mental or physical health that would endanger public health or safety;*
- (d) *False or deceptive practice or misrepresentation including advertising;*
- (e) *Practicing in an unlicensed salon or in a salon knowing that the practice is not in compliance with Sections 1 to 11 of this Act or the administrative regulations of the board promulgated pursuant to Sections 1 to 11 of this Act;*
- (f) *Immoral conduct, unprofessional conduct, or a violation of the code of ethics;*

- (g) *Teaching in an unlicensed school or in a school knowing that the school is not in compliance with Sections 1 to 11 of this Act or the administrative regulations of the board promulgated pursuant to Sections 1 to 11 of this Act; or*
- (h) *Failure to comply with Sections 1 to 11 of this Act or the administrative regulations promulgated by the board.*
- (2) *Payments in lieu of suspension collected by the board shall be deposited in the State Treasury and credited to the trust and agency account of the board.*
- (3) *The board may require retesting of any licensee upon proper showing of gross malpractice or incompetence on the part of the licensee.*
- (4) *Three (3) years from the date of a revocation, any person whose license has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the license upon a finding that the individual has complied with any terms prescribed by the board, including retesting, and is again able to competently engage in the practice of esthetics.*
- (5) (a) *The board may issue a written admonishment to the licensee, when in the judgment of the board:*
 - 1. *An alleged violation is not of a serious nature; and*
 - 2. *The evidence presented to the board after the investigation and appropriate opportunity for the licensee to respond provides a clear indication that the alleged violation did in fact occur.*
- (b) *A copy of the admonishment shall be placed in the permanent file of the licensee.*
- (c) *The licensee may file a response to the admonishment within thirty (30) days of its receipt. A copy of the licensee's response shall be placed in the permanent licensure file.*
- (d) *The licensee may alternatively, within thirty (30) days of the receipt, file a request for hearing with the board.*
- (e) *Upon receipt of this request the board shall set aside the written admonishment and set the matter for hearing pursuant to the provisions of KRS Chapter 13B.*
- (6) *At any time during the investigative or hearing processes, the board may enter into an agreed order or accept an assurance of voluntary compliance with the licensee which effectively deals with the complaint.*
- (7) *The board may utilize mediation as a technique in reasonably handling disciplinary matters. The board may appoint any member or members of the board, any staff member, or any other person or combination thereof to serve in the mediation process.*
- (8) *The board may reconsider, modify, or reverse its probation, suspension, or other disciplinary action.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 317B IS CREATED TO READ AS FOLLOWS:

- (1) *The board shall receive complaints concerning any person licensed under the provisions of Sections 1 to 11 of this Act relating to the licensee's business or professional practices.*
- (2) *Each complaint received shall be placed in a log, recording the licensee's name, the name of complaining party, date of complaint, and a brief statement of the complaint and its ultimate disposition, and the board shall make the log available for public inspection.*
- (3) *The board shall review all complaints concerning any person licensed under the provisions of Sections 1 to 11 of this Act.*
- (4) *The board may initiate an investigation on any complaint received or on its own volition and shall promulgate any administrative regulations necessary for the administration of the provisions of this section.*
- (5) *If, upon investigation, there appears to be a violation of the provisions of Sections 1 to 11 of this Act, the board shall take the action it deems necessary under the provisions of Section 8 of this Act.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 317B IS CREATED TO READ AS FOLLOWS:

- (1) *The board, before suspending, revoking, imposing probationary or supervisory conditions upon, imposing an administrative fine, issuing a written reprimand, or any combination of actions regarding any license under the provisions of Sections 1 to 11 of this Act, shall set the matter for hearing pursuant to the provisions of KRS Chapter 13B.*

- (2) *After denying an application under the provisions of Sections 1 to 11 of this Act, or issuing a written admonishment, the board shall grant a hearing pursuant to the provisions of KRS Chapter 13B.*
- (3) *A licensee or applicant aggrieved by a disciplinary action of the board may bring an action in Franklin Circuit Court pursuant to the provisions of KRS Chapter 13B.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 317B IS CREATED TO READ AS FOLLOWS:

Any person who violates any provision of Sections 1 to 11 of this Act shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or imprisoned for not less than ten (10) days nor more than six (6) months, or be subject to both the fine and the imprisonment.

Approved March 18, 2003

CHAPTER 138

(HCR 113)

A CONCURRENT RESOLUTION supporting the efforts of the U. S. Enrichment Corporation as it pursues improvements in energy production through technological advances.

WHEREAS, since 1993 when it first entered into a lease agreement to operate the Paducah Gaseous Diffusion Plant and continuing after 1998, when it became a private corporation, the U. S. Enrichment Corporation (USEC) has maintained and improved the vital national service of uranium enrichment conducted at the Paducah facility; and

WHEREAS, USEC has undertaken this task in partnership with the officials of the city of Paducah and McCracken county, and the many highly skilled and specialized employees working at and supporting the plant; and

WHEREAS, the Megatons to Megawatts program of shifting uranium enrichment from nuclear weapons production to nuclear energy generation has placed USEC on a path of improving efficiency through technological advances; and

WHEREAS, USEC will be testing an updated technology of gas centrifuge uranium enrichment in the next few years and continues to invest in a third-generation laser-based enrichment process; and

WHEREAS, Kentucky, as a key energy resource state, has local, state, and federal leaders who are committed to continuing the partnership with USEC as it continues the advancement of uranium enrichment for energy production;

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 Commonwealth of Kentucky commits to continuing its long-standing partnership with and supports the U. S. Enrichment Corporation in its efforts to effectively produce nuclear energy resources. To that end, the Commonwealth offers the resources of the state to aid in USEC's development and deployment of the next generation of uranium enrichment technologies. The offered resources may include, for example only, maintenance of the skilled, specialized workforce in Paducah and surrounding counties, the research capabilities of the state's top universities, assistance with debt financing, access to programs administered by the Economic Development Cabinet, and other resources appropriate to the specific technological projects undertaken by USEC.

Approved March 18, 2003

CHAPTER 139

(HCR 136)

A CONCURRENT RESOLUTION extending the reporting deadline for the Off-road Motorcycle and All-terrain Vehicle Task Force.

WHEREAS, the 2002 Regular Session of the General Assembly passed Senate Joint Resolution 16, enacted as 2002 Ky. Acts ch. 359; and

WHEREAS, Sections 20 to 24 of that Resolution established the Off-road Motorcycle and All-terrain Vehicle Task Force and set a reporting deadline of September 30, 2003; and

WHEREAS, the membership for this task force has only recently been appointed, leaving the task force little time to hold meetings before its original reporting deadline of September 30, 2003;

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 Off-road Motorcycle and All-terrain Vehicle Task Force shall report its findings and legislative recommendations to the Legislative Research Commission no later than September 30, 2004, for action during the 2005 Regular Session of the General Assembly.

Approved March 18, 2003

CHAPTER 140

(HCR 141)

A CONCURRENT RESOLUTION directing the Interim Joint Committee on Education to study the Kentucky Educational Excellence Scholarship Program.

WHEREAS, the 1998 Session of the General Assembly created the Kentucky Educational Excellence Scholarship Program to reward Kentucky's brightest students and to motivate them to continue their postsecondary education career at a Kentucky postsecondary education institution; and

WHEREAS, the Kentucky Educational Excellence Scholarship Program has been in existence for nearly five (5) years; and

WHEREAS, there are program data available that can be analyzed to determine the effectiveness of the program; and

WHEREAS, there are concerns about the fairness in the different high school grading systems across the state that may give advantages to some students and disadvantage others; and

WHEREAS, it is time to analyze the program and make necessary adjustments;

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 Interim Joint Committee on Education shall review the current status of the Kentucky Educational Excellence Scholarship Program, the different high school grading systems across the state, the course-taking patterns of students, the long-term financial needs, and other elements of the program, and make recommendations as needed to the 2004 Session of the General Assembly.

Section 2. 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 18, 2003

CHAPTER 141

(HJR 7)

A JOINT RESOLUTION naming various highways.

WHEREAS, there is no greater honor than to serve your country during times of war and no family has made a greater contribution to protecting the freedoms the United States was founded upon than the Ferguson family from Morgan County; and

WHEREAS, during World War II, G. Barnes and Louella Smith Ferguson sent their four sons, Arlen, Foster, Okla, and Donald, off to defend our way of life; and

WHEREAS, Okla Ferguson served in the Army Air Force in the South Pacific Theater fighting the Japanese; and

WHEREAS, Donald Ferguson served in the United States Marine Corps, and he also fought the Japanese in the South Pacific Theater; and

WHEREAS, Arlen Ferguson served in the Eighth Infantry Division, General Hodge's First Army, where he fought in America's triumph over the German Army in the Battle of the Bulge; and

WHEREAS, Foster Ferguson served in the Fifth Infantry Division, General Patton's Third Army, which also fought in the Battle of the Bulge; and

WHEREAS, more than half a century after the Battle of the Bulge, history stands in awe of the courage, sacrifice, and extraordinary determination of the more than 600,000 U.S. soldiers and airmen who fought in that epic battle; and

WHEREAS, even though the Battle of the Bulge marked the beginning of the end for Hitler's Nazi regime, the victory came at a horrendous price with over 19,000 Americans dead and thousands more wounded, captured, or missing in action; and

WHEREAS, while serving in Germany, Arlen Ferguson was awarded the Combat Infantry Badge, Silver Star for gallantry in action and above the call of duty, the Bronze Star Medal, and four Purple Hearts for wounds he received in action; and

WHEREAS, upon being discharged from the Army, Arlen Ferguson tirelessly worked for veterans causes and his personal efforts were instrumental in Congress enacting the War Orphans' Education Act, as well as the Direct Home Loan program under the G.I. bill which lends money at low interest rates to honorably discharged veterans to help them purchase a home; and

WHEREAS, if it had not been for the spirit, fortitude, valor, and resolve of Arlen, Foster, Okla, and Donald Ferguson, in addition to the thousands of men and women who fought during World War II, Americans would not be able to enjoy the many freedoms that today far too many of us take for granted; and

WHEREAS, all Kentuckians need to express their profound gratitude to the Ferguson Brothers and to all veterans -- for their service, sacrifice, and achievements will live forever in our hearts and memories;

WHEREAS, John Conlee is a native and favorite son of Woodford County; and

WHEREAS, John Conlee is a talented musician who has achieved stardom in the world of country music with many hits including "Rose Colored Glasses";

NOW, THEREFORE,

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

Section 1. The members of this body proudly declare Arlen Ferguson and Foster Ferguson to be outstanding citizens and exemplary representatives of the Commonwealth and posthumously bestow the declaration upon Okla Ferguson and Donald Ferguson.

Section 2. The Transportation Cabinet shall name Kentucky Route 172 in Morgan and Johnson Counties "The Ferguson Brothers Highway."

Section 3. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs on Kentucky Route 172 in Morgan and Johnson Counties that read "The Ferguson Brothers Highway."

Section 4. The Transportation Cabinet shall name United States Route 60 in Woodford County from the eastern limits of the City of Versailles to the western city limits at the intersection of United States Route 60 and United States Route 62 the "John Conlee Highway".

Section 5. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs on United States Route 60 in Woodford County at the eastern limits of the City of Versailles and the western city limits at the intersection of United States Route 60 and United States Route 62 that read "John Conlee Highway".

Approved March 18, 2003

CHAPTER 142

(HJR 82)

A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

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

Section 1. Any mandates, directives, or initiatives contained in the 2002-2004 Judicial Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 2002-2004 Judicial Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 2002-2004 Judicial Branch Budget Bill or the 2002-2004 Judicial Branch Budget Memorandum.

Section 3. The provisions of the 2002-2004 Judicial Branch Budget Memorandum shall not be construed to contain appropriations and, therefore, shall not supersede appropriations contained in the 2002-2004 Judicial Branch Budget Bill or appropriations contained in any other enactment of the 2003 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 2002-2004 Judicial Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 2002-2004 Judicial Branch Budget Memorandum, the mandate, directive, or initiative contained in the 2002-2004 Judicial Branch Budget Bill shall prevail.

Section 4. Whereas the Judicial Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Section 5. The 2002-2004 Judicial Branch Budget Memorandum is as follows:

Approved March 18, 2003

CHAPTER 143**(HJR 83)**

A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

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

Section 1. Any mandates, directives, or initiatives contained in the 2002-2004 State/Executive Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 2002-2004 State/Executive Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 2002-2004 State/Executive Branch Budget Bill or the 2002-2004 State/Executive Branch Budget Memorandum.

Section 3. The provisions of the 2002-2004 State/Executive Branch Budget Memorandum shall not be construed to contain appropriations and, therefore, shall not supersede appropriations contained in the 2002-2004 State/Executive Branch Budget Bill or appropriations contained in any other enactment of the 2003 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 2002-2004 State/Executive Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 2002-2004 State/Executive Branch Budget Memorandum, the mandate, directive, or initiative contained in the 2002-2004 State/Executive Branch Budget Bill shall prevail.

Section 4. Whereas the State/Executive Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Section 5. The 2002-2004 State/Executive Branch Budget Memorandum is as follows:

Approved March 18, 2003

CHAPTER 144**(HJR 110)**

A JOINT RESOLUTION naming Kentucky Route 1786 in Rockcastle County the "Ballard Parsons Highway" and declaring an emergency.

We pause to honor our native son, Ballard Parsons, who has enriched the lives of every soul he has encountered.

WHEREAS, Ballard Parsons was stricken with polio in 1952 and spent eleven months in a hospital in Lexington, ten of those months fighting for his life while confined to an iron lung; and

WHEREAS, Ballard Parsons completed his high school education and earned his diploma through the home bound school program; and

WHEREAS, in April of 1953, Ballard Parsons' father purchased a grocery store in Wildie, Kentucky, a small community in Pulaski County; and

WHEREAS, Ballard Parsons was given full responsibility for managing and operating the store, known as Ballard's Grocery, even though he was wheelchair bound; and

WHEREAS, Ballard Parsons never let adversity stand in the way of living a complete and happy life; and

WHEREAS, Ballard Parsons has been a positive influence on the entire Wildie community and Ballard's Grocery has become an important community gathering place where friends meet to play checkers, pick up milk, bread, or soft drinks, and to discuss and contemplate current events; and

WHEREAS, 2003 marks the fiftieth year Ballard Parsons has been a merchant serving the needs of his community;

NOW, THEREFORE,

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

Section 1. The members of this body, both individually and collectively, proclaim Ballard Parsons to be an outstanding citizen and exemplary representative of the Commonwealth.

Section 2. The Transportation Cabinet shall name Kentucky Route 1786 in Rockcastle County the "Ballard Parsons Highway".

Section 3. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs on Kentucky Route 1786 in Rockcastle County that read "Ballard Parsons Highway".

Section 4. Whereas Ballard Parsons' health is very frail, an emergency is declared to exist and this Resolution takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved March 18, 2003

CHAPTER 145**(HJR 112)**

A JOINT RESOLUTION honoring Howard J. Hoess of Pendleton County.

WHEREAS, Howard Hoess, a native of Bellvue, Kentucky, has become a fixture in the civic and community life of Pendleton County; and

WHEREAS, Howard Hoess has operated a Dairy Queen restaurant in Falmouth for over twenty years; and

WHEREAS, in that time, Howard Hoess has been a tireless supporter of youth and school activities, giving time and donations to the 4-H Club, local schools and high school athletic teams, and youth sports teams; and

WHEREAS, Howard Hoess also donated time and effort to support the American Legion and the local Chamber of Commerce; and

WHEREAS, Howard Hoess is the loving husband of the former Patty Ammerman, and proud father of two sons, Tony and Jeff, a stepson, Dean, and a stepdaughter, Angie; and

WHEREAS, Howard Hoess should be recognized and honored for a life well lived in support of his community;

NOW, THEREFORE,

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

Section 1. The members of this body, both individually and collectively, proclaim Howard J. Hoess to be an outstanding citizen and exemplary representative of the Commonwealth.

Section 2. The Transportation Cabinet is directed to name United States Route 27 in the city of Falmouth, from the intersection with Dickerson Lane (mile point 7.912) to the intersection with Wilson Street (mile point 7.985), the "Howard J. Hoess Highway."

Section 3. The Transportation Cabinet shall, within thirty (30) days of the effective date of this Resolution, erect signs at each end of the section of United States Route 27 described in Section 2 of this Resolution that read the "Howard J. Hoess Highway."

Approved March 18, 2003

CHAPTER 146

(SB 20)

AN ACT relating to information required to be maintained and updated by long-term care facilities.

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

Section 1. KRS 216.595 is amended to read as follows:

- (1) (a) Any ***assisted-living community as defined by KRS 194A.700***, long-term care facility as defined in KRS 216.535, or long-term care facility constructed under KRS 216B.071 that claims to provide special care for persons with a medical diagnosis of Alzheimer's disease or other related disorders shall maintain a written and current manual that contains the information specified in subsection (2) of this section. This manual shall be maintained in the office of the ***community's or*** facility's director and shall be made available for inspection upon request of any person. The ***community or*** facility shall make a copy of any program or service information contained in the manual for a person who requests information about programs or services, at no cost to the person making the request.
- (b) Any advertisement of the ***community or*** facility shall contain the following statement: "Written information relating to this ***community's or*** facility's services and policies is available upon request."
- (c) The ***community or*** facility shall post a statement in its entrance or lobby as follows: "Written information relating to this ***community's or*** facility's services and policies is available upon request."
- (2) The ***community or*** facility shall maintain and update written information on the following:
 - (a) The ***assisted-living community's or*** long-term care facility's mission or philosophy statement concerning the needs of residents with Alzheimer's disease or related disorders;
 - (b) The process and criteria the ***assisted-living community or*** long-term care facility uses to determine placement into services for persons with Alzheimer's disease or related disorders;
 - (c) The process and criteria the ***assisted-living community or*** long-term care facility uses to transfer or discharge persons from special services for Alzheimer's or related disorders;
 - (d) The supervision provided for residents with a medical diagnosis of Alzheimer's disease or related disorders;
 - (e) The family's role in care;
 - (f) The process for assessing, planning, implementing, and evaluating the plan of care for persons with Alzheimer's disease or related disorders;

- (g) A description of any special care services for persons with Alzheimer's disease or other related disorders;~~and~~
- (h) Any costs associated with specialized services for Alzheimer's disease or related disorders; *and*
- (i) *A description of dementia-specific staff training that is provided, including but not limited to the content of the training, the number of offered and required hours of training, the schedule for training, and the staff who are required to complete the training.*

Approved March 18, 2003

CHAPTER 147

(SB 132)

AN ACT relating to school buses and declaring an emergency.

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

Section 1. KRS 189.550 is amended to read as follows:

Operators of all buses and motor vehicles used for transporting children shall stop their vehicles before crossing any railroad when tracks are at the same level of the roadway. The stop shall be made not less than ***fifteen (15)***~~ten (10)~~ feet nor more than ***fifty (50)***~~thirty (30)~~ feet from the nearest track over which the highway crosses, except where the crossing is protected by gates or a flagman employed by the railroad. After making the stop, the operator shall open the service door and carefully look in each direction and listen for approaching trains or maintenance vehicles before proceeding. ***If visibility is impaired at the required distance for stopping under this section, the operator may allow the vehicle to slowly roll forward for the purpose of gaining the visibility necessary to safely cross the railroad tracks.***

Section 2. Whereas many school districts have experienced disastrous weather conditions during the 2002-03 school year that have closed or destroyed roads making school bus transportation impossible and causing schools to be closed for many days, the commissioner of education, notwithstanding any other statute to the contrary or administrative regulation to the contrary, shall approve five (5) disaster days for a school district that has been closed at least ten (10) days. Certified personnel shall continue to report to work and participate in instructional activities or professional development during the five (5) disaster days.

Section 3. Whereas school districts must know how to adjust the school calendar for the remaining part of the school year, 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 18, 2003

CHAPTER 148

(HB 510)

AN ACT relating to economic development.

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 10 of this Act, unless the context clearly indicates otherwise:

- (1) ***"Approved company"*** means any eligible company for which the authority has granted final approval of its application pursuant to Section 7 of this Act;
- (2) ***"Approved costs"*** means that portion of the eligible costs approved by the authority that an approved company may recover through the inducements authorized by Sections 1 to 10 of this Act; however, approved costs shall not exceed ten percent (10%) of the eligible costs;
- (3) ***"Authority"*** means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;
- (4) ***"Commonwealth"*** means the Commonwealth of Kentucky;

- (5) *"Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity designated by the United States Department of Commerce, United States Census Bureau North American Industry Classification System code of 336211, 336111, 336112, or 336120 that employs a minimum of one thousand (1,000) full-time persons engaged in manufacturing at the same facility or at multiple facilities located within the same county, whether owned or leased, is 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 a reinvestment project which meets the standards set forth in Section 7 of this Act, and has not been an approved company in an industrial revitalization project under subchapter 26 of KRS Chapter 154 for a period of at least five (5) years;*
- (6) *"Eligible 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 existing manufacturing reinvestment 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 a reinvestment 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 a reinvestment project;*
 - (d) *All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, rehabilitation, and installation of an existing manufacturing reinvestment project; and*
 - (e) *All costs required for the installation of utilities, including but not limited to water, sewer, sewer treatment, gas, electricity, communications, and access to transportation, and including off-site construction of the facilities paid for by the approved company;*
- (7) *"Equipment" means manufacturing machinery installed by the approved company at the project; however, equipment shall not mean accessories or appurtenances of existing or new manufacturing machinery including but not limited to molds, dies, or other attachments of a less permanent nature;*
- (8) *"Final approval" means the action taken after July 1, 2004, by the authority designating an eligible company that has previously received a preliminary approval as an approved company and authorizing the execution of a reinvestment agreement between the authority and the approved company;*
- (9) *"Inducements" means the Kentucky tax credits as authorized by Sections 1 to 10 of this Act;*
- (10) *"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;*
- (11) *"Preliminary approval" means the action taken by the authority designating an eligible company as a preliminarily-approved company, and conditioning final approval by the authority upon satisfaction by the eligible company of the requirements set forth in the preliminary approval;*
- (12) *"Reinvestment agreement" or "agreement" means the agreement entered into pursuant to Section 8 of this Act on behalf of the authority and an approved company with respect to a reinvestment project;*
- (13) *"Reinvestment project" or "project" means the acquisition, construction, and installation of new equipment and, with respect thereto, the construction, rehabilitation, and installation of improvements to facilities necessary to house the acquisition, construction, and installation of new equipment, including surveys; installation of utilities including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located; and shall contain eligible costs of not less than one hundred million dollars (\$100,000,000), all of which are utilized to improve the economic and operational situation of an approved company to allow the approved company to reinvest in its operations and retain or create jobs within the Commonwealth; and*

- (14) *"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. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that the general welfare and material well-being of the citizens of the Commonwealth depends in large measure upon the reinvestment and development of existing industry in the Commonwealth, and that it is in the best interest of the Commonwealth to induce the reinvestment of existing manufacturing facilities within the Commonwealth in order to advance the public purposes of relieving unemployment by preserving jobs that may no longer 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 Sections 1 to 10 of this Act, and the purposes to be accomplished under the provisions of Sections 1 to 10 of this Act are proper governmental and public purposes for which public moneys may be expended, and that the inducement of the creation of projects is of paramount importance mandating that the provisions of Sections 1 to 10 of this Act be liberally construed and applied in order to advance public purpose.

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

The secretary of the Cabinet for Economic Development shall provide sufficient personnel to serve as staff for the authority in order to permit the authority to adequately discharge its duties and responsibilities prescribed in Sections 1 to 10 of this Act.

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

No director or officer of the authority shall be subject to any personal liability or accountability by reason of the execution of any obligation duly authorized by the authority.

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

The authority may accept and expend moneys which may be appropriated from time to time by the General Assembly, or moneys which may be received from any source, including income from the authority's operations for effectuating its purpose, including, without limitation, the payment of the expenses of administration and operation.

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

- (1) *No director, officer, or employee of the authority shall be interested, directly or indirectly, or shall be an officer or employee, or have an ownership interest in any firm or corporation interested, directly or indirectly, in any contract with the authority.*
- (2) *Should a director, officer, or employee of the authority have an interest in or be an officer or employee of or have an ownership interest in any such firm or corporation, then the director, officer, or employee of the authority shall:*
 - (a) *Disclose the interest and the office, employment, or ownership in the firm or corporation;*
 - (b) *Refrain from participating in discussions relating to any contract of the firm or corporation with the authority; and*
 - (c) *Refrain from voting or otherwise taking action on any contract or proposed contract of the authority with the firm or corporation.*

- (3) *If any contract or agreement shall be made in violation of the provisions of this section, it shall be null and void and no action shall be maintained against the authority.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *The authority may establish standards for the determination and preliminary approval of eligible companies and their projects by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A.*
- (2) *The criteria for preliminary approval of eligible companies and reinvestment projects shall include but not be limited to the need for the project, the eligible costs to be expended by the eligible company, and the number of employees whose jobs are to be created or retained as a result of the project.*

- (3) *Each eligible company making an application to the authority for inducements shall, in a manner acceptable to the authority, describe the condition of the existing facility, including but not limited to financial, efficiency, and productivity matters; explain the reasons required for reinvestment in the facility; identify the time schedule of the proposed project; set out alternatives that are available to the eligible company; explain the need for the inducements for the eligible company to undertake the project; and provide any additional information relating to the project as the authority may require.*
- (4) *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 authorize a conditional undertaking of the project pursuant to a memorandum of agreement negotiated between the eligible company and the authority.*
- (5) *The preliminarily-approved company shall, in a manner acceptable to the authority and at certain times as the authority may require, provide documentation relating to the eligible costs expended or obligated in connection with the project. The authority shall review the preliminarily approved company's progress in connection with the project to determine if the conditions set forth in the memorandum of agreement have been met.*
- (6) *After July 1, 2004, and upon a review of the documentation relating to the preliminarily approved company's compliance under the memorandum of agreement, the authority, by resolution, may give its final approval to the preliminarily approved company's application for a reinvestment project and may grant to the preliminarily approved company the status of an approved company.*
- (7) *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 8. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *The authority, upon adoption of its final approval, may enter into with any approved company a reinvestment agreement with respect to its project. The terms and provisions of each agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each reinvestment agreement shall include the following provisions:*
 - (a) *The agreement shall set a date by which the approved company will have completed the project. Within three (3) months of the completion date, the approved company shall document its expenditures of the eligible costs attributable to the project in a manner acceptable to the authority. The authority may employ an independent consultant or utilize technical resources to verify the cost of the project. The approved company shall reimburse the authority for the cost of a consultant or other technical resources employed by the authority;*
 - (b) *In consideration of the execution of the agreement between the authority and approved company, the approved company may be permitted one (1) or both of the following inducements:*
 1. *A credit against the Kentucky income tax imposed by KRS 141.020 or 141.040 on the income of the approved company generated by or arising out of the reinvestment project as determined under Section 11 of this Act;*
 2. *A credit against the Kentucky license tax imposed by KRS 136.070 on the approved company as determined under Section 12 of this Act;*
 - (c) *The total inducements authorized in the agreement for the benefits of the approved company shall be equal to the lesser of the total amount of the tax liability or the approved costs that have not yet been recovered. The inducements shall be allowed for each fiscal year of the approved company during the term of the agreement and for which a tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed under KRS 141.044 or 141.305 on income from the project;*
 - (d) *The agreement shall provide that the term shall not be longer than the earlier of:*
 1. *The date on which the approved company has received inducements equal to the approved costs of its reinvestment project; or*
 2. *Ten (10) years from the date of final approval granted by the authority;*

- (e) *All eligible costs of the project shall be expended by the approved company within three (3) years from the date of final approval by the authority. In the event that all eligible costs of the project are not fully expended by the approved company within the three (3) year period, the authority is authorized to:*
 - 1. *Reduce the inducements; or*
 - 2. *Suspend the inducements; or*
 - 3. *Terminate the agreement;*
- (f) *If the agreement is terminated, the authority may require the approved company to repay the Revenue Cabinet of the Commonwealth all or part of any inducements received by the approved company prior to the termination of the agreement;*
- (g) *The agreement shall specify that the approved company shall make available all of its records pertaining to the project including but not limited to payroll records, records relating to the expenditure of eligible costs and approved costs, and any other records pertaining to the project as the authority may require;*
- (h) *The agreement shall not be transferred or assigned by the approved company without the expressed written consent of the authority.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

By October 1 of each year, the Revenue Cabinet of the Commonwealth shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year by approved companies with respect to their reinvestment projects under this Act, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken inducements equal to its approved costs.

SECTION 10. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 10 of this Act shall be known as the Kentucky Reinvestment Act.

SECTION 11. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, unless the context requires otherwise:*
 - (a) *"Approved company" has the same meaning as set forth in Section 1 of this Act;*
 - (b) *"Reinvestment project" has the same meaning as set forth in Section 1 of this Act; and*
 - (c) *"Tax credit" means the tax credit allowed in Section 8 of this Act.*
- (2) *An approved company shall determine the income tax credit as provided in this section.*
- (3) *An approved company which is an individual sole proprietorship subject to tax under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or limited liability company treated as a corporation for federal income tax purposes shall:*
 - (a) *Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from a reinvestment project;*
 - (b) *Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to a reinvestment project; and*
 - (c) *The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in Section 8 of this Act.*
- (4) (a) *Notwithstanding any other provisions of this chapter, an approved company which is an S corporation, partnership, registered limited liability partnership, limited liability company treated as a partnership for federal income tax purposes, or trust shall be subject to income tax on the net income attributable to a reinvestment project at the rates provided in KRS 141.020(2).*

- (b) *The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.*
 - (c) *The tax credit or estimated payment shall not exceed the limits set forth in Section 8 of this Act.*
 - (d) *If the tax computed in this section exceeds the tax credit, the difference shall be paid by the S corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.*
 - (e) *Any estimated tax payment made by the S corporation, partnership, registered limited liability partnership, limited liability company, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries, shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.*
- (5) *Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, member's, or beneficiaries' distributive share of net income or credit of an S corporation, partnership, registered limited liability partnership, limited liability company or trust.*
 - (6) *If the reinvestment project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility.*
 - (7) *If the reinvestment project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the reinvestment project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the reinvestment project by a formula approved by the Revenue Cabinet.*
 - (8) *If an approved company can show to the satisfaction of the Revenue Cabinet that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the reinvestment project is located, the approved company shall determine net income from the reinvestment project using an alternative method approved by the Revenue Cabinet.*
 - (9) *The Revenue Cabinet may issue administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of Sections 1 to 10 of this Act and the allowable income tax credit which an approved company may retain under Sections 1 to 10 of this Act.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, unless the context requires otherwise:*
 - (a) *"Approved company" means a company approved under Sections 1 to 10 of this Act and subject to license tax under KRS 136.070;*
 - (b) *"Reinvestment project" has the same meaning as set forth in Section 1 of this Act; and*
 - (c) *"Tax credit" means the tax credit allowed in Section 8 of this Act.*
- (2) *The tax credit shall equal the computed license tax attributable to the location of a reinvestment project; however, the credit shall not exceed the limits set forth in Section 8 of this Act.*
- (3) *The license tax attributable to a reinvestment project shall be determined by a formula approved by the Revenue Cabinet.*

- (4) *The Revenue Cabinet may promulgate administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of Sections 1 to 10 of this Act and the allowable tax credit which an approved company may retain under Sections 1 to 10 of this Act.*

Approved March 19, 2003

CHAPTER 149

(SB 162)

AN ACT relating to chemical weapons materials disposal.

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

Section 1. KRS 224.50-130 is amended to read as follows:

- (1) The General Assembly of Kentucky finds that:
 - (a) The compounds listed in subsection (2) of this section were designed and configured to be utilized for warfare, with the purpose of incapacitating or inducing lethality in persons who come in contact with the compounds, and that the compounds have no legitimate civilian use;
 - (b) The Commonwealth of Kentucky owes to its residents a duty of utmost care to assure that no person will be exposed to these compounds or the degradation by-products of these compounds through purposeful or accidental release of the compounds into the air, land, or water of the Commonwealth, and also owes a duty to utilize the police powers of the Commonwealth to guarantee the safe demilitarization, decommissioning, dismantling, and disposal of weapons containing these compounds and to eliminate potential risks of exposure from the treatment and disposal of the compounds;
 - (c) Section 6929 of Title 42 of the United States Code, specifically recognizes and reserves to the Commonwealth the authority to impose reasonable restrictions directly relating to public health and safety with respect to the management of hazardous wastes beyond the minimum standards established under federal law; and
 - (d) There exist substantial gaps in information concerning the acute and chronic health effects and environmental consequences of exposure to the compounds and the degradation by-products of the compounds listed in subsection (2) of this section, which, given the high acute toxicity of the compounds relative to other regulated hazardous wastes, justify the imposition of standards correlative to the uncertainties and severity of risks potentially posed by the treatment or disposal of the compounds.
- (2) Notwithstanding any other provision of this chapter, within thirty (30) days after July 15, 1988, the cabinet shall list the following compounds as hazardous wastes for the purposes of regulation of the treatment, storage, and disposal of the wastes under the delegated authority of the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.: GB (isopropyl methyl phosphonofluoridate); VX (O-ethyl-S-(2-diisopropylaminoethyl) methyl phosphonothiolate); and H (bis(2-chloroethyl) sulfide) and related compounds.
- (3) In addition to the requirements of KRS 224.46-520(1), the cabinet shall consider the criteria set forth in this subsection in making a determination to issue, deny, or condition a permit for any person desiring a permit to construct or operate a hazardous-waste site or facility for treatment or disposal of any of the compounds identified in subsection (2) of this section. The applicant shall affirmatively demonstrate, and the cabinet shall find prior to issuance, conditional issuance, or denial of the permit or draft permit, that:
 - (a) The proposed treatment or destruction technology has been fully proven in an operational facility of scale, configuration, and throughput comparable to the proposed facility, or has been demonstrated as effective, within the chemical weapons disposal programs as directed in Pub. L. 104-208 and other applicable federal laws, sufficient to provide assurance of destruction or neutralization at an efficiency of ninety-nine and nine thousand, nine hundred, and ninety-nine ten thousandths percent (99.9999%) for each compound listed in subsection (2) of this section that is proposed to be treated or destroyed, with the efficiency to be demonstrated as achievable under all operating conditions. During the occurrence of malfunctions, upsets, or unplanned shutdowns, all quantities of any compound listed in subsection (2) of this section shall be contained, reprocessed or otherwise controlled so as to ensure that the required efficiency is attained prior to any release to the environment;

- (b) Monitoring data from an operational facility or alternative disposal program as described in paragraph (a) of this subsection reflects that the emissions from treatment and destruction facilities or fugitive sources, including, but not limited to, the emissions of the compounds identified in subsection (2) of this section and products of combustion, incomplete combustion, and other processes alone or in combination present no more than a minimal risk of acute or chronic human health effect, as demonstrated by sufficient and applicable toxicological data, or adverse environmental effect; and
- (c) An emergency response plan has been submitted to the cabinet and approved, after public notice and an opportunity to be heard, providing for sufficient training, coordination, and equipment for state and local emergency response personnel, including health, police, fire, and other responders, to assure the ability of the community to respond to releases from such a facility. The plan shall demonstrate the capability of evacuating prior to exposure, or otherwise mitigating exposure for all individuals that might be exposed to releases from the facility during a credible worst-case release. In determining the population and area of potential exposure during a worst-case release, all possible climatic conditions and population distributions shall be assumed for the largest area where any exposure to the release could induce acute or chronic health consequences or environmental impact. If such a plan has not been fully implemented at the time of permit approval, the Division of Emergency Management shall advise the cabinet of critical shortcomings. Any permit issued shall include, as conditions, the resolution of critical shortcomings in the implementation of the plan, and shall not allow actual destruction of any of the compounds identified in subsection (2) of this section to begin until those permit conditions have been met to the satisfaction of the Division of Emergency Management. No later than January 1, 2001, the Division of Emergency Management shall complete an assessment of a draft plan previously submitted by the applicant and the respective counties and, after public notice and an opportunity to be heard, shall approve or reject the draft plan. The cabinet shall conduct no technical review of a permit application for treatment or disposal of these compounds until notified in writing by the Division of Emergency Management that the draft plan has been approved .
- (4) In considering any application for a permit subject to this section, and supporting information which shall be provided by the applicant on request by the cabinet, the cabinet shall not issue a permit unless, as part of the alternatives analysis of KRS 224.46-520(1), the cabinet makes an affirmative finding after public notice and an opportunity to be heard, that no alternative method of treatment or disposal exists in an operational facility or alternative disposal program as described in subsection (3)(a) of this section that create less risk of release, or acute or chronic health effect, or adverse environmental effect.
- (5) In addition to the definition of the term as defined in this chapter, the term "treatment", as used in this section, shall include the manual or mechanical handling of the chemical compounds listed in subsection (2) of this section and of any munitions containing the compounds during the processing of munitions to remove the compounds, to separate munitions components, and to otherwise prepare the components and compounds for destruction, neutralization, dismantling, or decommissioning. The term "treatment" shall not include the handling, movement, or overpacking of containers or munitions containing a compound listed in subsection (2) of this section within the fenced boundaries of an area used for the storage of those munitions if:
 - (a) A plan for the handling, movement, or overpacking is submitted and approved by the cabinet, after public notice and opportunity to be heard, before the handling, movement, or overpacking occurs; or
 - (b) An emergency has occurred and the handling, movement, or overpacking is necessary to protect human health, safety, or the environment, if a report describing the handling, movement, or overpacking is submitted to the cabinet as soon as possible after the emergency is abated.
- (6) *No site or facility for treatment or disposal of any of the substances identified in subsection (2) of this section shall be issued a permit to treat or destroy a live chemical agent as a research, development or demonstration permit except for a pilot scale operation.*
- (7) *In addition to other requirements of KRS 224.46-520(1) and subsections (1) to (6) of this section, the cabinet shall not issue a permit or authorization to construct or operate a hazardous waste site or facility for treatment or disposal of any of the compounds identified in subsection (2) of this section unless the applicant provides written documentation from the host county certifying that:*
 - (a) *All infrastructure improvements identified in the final emergency response plan required in subsection (3)(c) of this section as being reasonably necessary to assure the ability of the community to effectively respond to releases from the facility in order to protect public health and the*

environment under the emergency response plan, have been or will be completed by the applicant prior to operation of the facility;

- (b) *The applicant has provided to the host county sufficient funding for reasonable direct and indirect costs of the creation and maintenance of the position of host community liaison. The host community liaison will be determined by the host county and will act as the single point of contact for community relations, emergency planning, and community oversight of the construction, operation, closure, and emergency response of the facility.*

Approved March 20, 2003

CHAPTER 150

(HB 524)

AN ACT relating to the Kentucky Revised Statutes.

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

Section 1. KRS 154.45-090 is amended to read as follows:

- (1) A new business, or an existing business certified on the basis of employee expansion, shall be eligible to receive the tax advantages provided for in this section if the qualified business maintains the percentage of targeted workforce employees required by KRS 154.45-010(8)~~(7)~~ for the entire time it is certified as a qualified business in the Enterprise Zone Program.
- (2) Building materials used in remodeling, rehabilitation, or new construction within an enterprise zone shall be exempt from sales and use taxes provided for in KRS Chapter 139.
- (3) New and used equipment and machinery purchased and used by a qualified business within an enterprise zone shall be exempt from sales and use taxes provided for in KRS Chapter 139. Equipment and machinery may be moved in and out of an enterprise zone for business purposes only. In addition, it may not become a permanent fixture at another location and may be only temporarily located elsewhere for maintenance, mechanical failure, or emergency short term replacement.
- (4) Commercial vehicles as defined in KRS 186.050, purchased and used by a qualified business solely for business purposes, shall be exempt from the motor vehicle usage tax imposed by KRS 138.460.
- (5) Motor vehicles not considered commercial vehicles pursuant to KRS 186.050, purchased and used by a qualified business solely for business purposes, shall be exempt from the motor vehicle usage tax limited to the first twenty thousand dollars (\$20,000) of the "retail price" of the vehicle as defined in KRS 138.450.
- (6) Motor vehicles or motor trucks purchased by a qualified business for the purpose of being leased to a customer for a period greater than ninety (90) days shall not be exempt from the motor vehicle usage taxes provided for in KRS 138.460.
- (7) A qualified business shall be allowed a credit against the tax levied pursuant to KRS 141.040 equal to ten percent (10%) of wages paid to each employee who has been unemployed for at least ninety (90) days or who has received public assistance benefits, based on need and intended to alleviate poverty, for at least ninety (90) days prior to employment with the qualified business, up to fifteen hundred dollars (\$1,500) per employee. Any unused credit may be carried forward for up to five (5) years.
- (8) A local government may, by an act of the local legislative body, levy an ad valorem tax rate of one-tenth of one cent (\$.001) upon each one hundred dollars (\$100) of value on qualified property within an enterprise zone regardless of the rates provided for in KRS Chapter 132.

Section 2. KRS 164A.370 is amended to read as follows:

The property of the trust and its income from operations shall be exempt from all taxation by the Commonwealth of Kentucky or any of its political subdivisions. Investment income earned on contributions paid by any participant and used for higher education costs defined in KRS 164A.305(6)~~(7)~~ or refunded under KRS 164A.350(8)~~(7)~~(a) or 164A.350(8)~~(7)~~(b) shall not be subject to Kentucky income tax by either a participant or any beneficiary of a participation agreement, the purposes for which the investment income was accrued being deemed and declared to be entirely public in nature. Earnings that are not used for higher education costs as defined in KRS 164A.305(6)~~(7)~~

and are refunded shall be subject to Kentucky income tax, except for earnings refunded pursuant to KRS 164A.350(8)(a) and 164A.350(8)(b).

Section 3. KRS 278.216 is amended to read as follows:

- (1) Except for a utility as defined under KRS 278.010(9) that has been granted a certificate of public convenience and necessity prior to April 15, 2002, no utility shall begin the construction of a facility for the generation of electricity capable of generating in aggregate more than ten megawatts (10MW) without having first obtained a site compatibility certificate from the commission.
- (2) An application for a site compatibility certificate shall include the submission of a site assessment report as prescribed in KRS 278.708(3) and (4), except that a utility which proposes to construct a facility on a site that already contains facilities capable of generating ten megawatts (10MW) or more of electricity shall not be required to comply with setback requirements established pursuant to KRS 278.704(3). A utility may submit and the ~~commission~~~~board~~ may accept documentation of compliance with the National Environmental Policy Act (NEPA) rather than a site assessment report.
- (3) The commission may deny an application filed pursuant to, and in compliance with, this section. The commission may require reasonable mitigation of impacts disclosed in the site assessment report including planting trees, changing outside lighting, erecting noise barriers, and suppressing fugitive dust, but the commission shall, in no event, order relocation of the facility.
- (4) The commission may also grant a deviation from any applicable setback requirements on a finding that the proposed facility is designed and located to meet the goals of this section and KRS 224.10-280, 278.010, 278.212, 278.214, 278.218, and 278.700 to 278.716 at a distance closer than those provided by the applicable setback requirements.
- (5) Nothing contained in this section shall be construed to limit a utility's exemption provided under KRS 100.324.
- (6) Unless specifically stated otherwise, for the purposes of this section, "utility" has the same meaning as in KRS 278.010(3)(a) or (9).

Section 4. KRS 304.17B-001 is amended to read as follows:

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

- (1) "Administrator" is defined in KRS 304.9-051(1);
- (2) "Agent" is defined in KRS 304.9-020;
- (3) "Assessment process" means the process of assessing and allocating guaranteed acceptance program losses or Kentucky Access funding as provided for in KRS 304.17B-021;
- (4) "Authority" means the Kentucky Health Care Improvement Authority;
- (5) "Case management" means a process for identifying an enrollee with specific health care needs and interacting with the enrollee and their respective health care providers in order to facilitate the development and implementation of a plan that efficiently uses health care resources to achieve optimum health outcome;
- (6) "Commissioner" is defined in KRS 304.1-050(1);
- (7) "Department" is defined in KRS 304.1-050(2);
- (8) "Earned premium" means the portion of premium paid by an insured that has been allocated to the insurer's loss experience, expenses, and profit year to date;
- (9) "Enrollee" means a person who is enrolled in a health benefit plan offered under Kentucky Access;
- (10) "Eligible individual" is defined in KRS 304.17A-005(7);
- (11) "Guaranteed acceptance program" or "GAP" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;
- (12) "Guaranteed acceptance program participating insurer" means an insurer that offered health benefit plans through December 31, 2000, in the individual market to guaranteed acceptance program qualified individuals;
- (13) "Health benefit plan" is defined in KRS 304.17A-005(17);

- (14) "High-cost condition" means acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency, cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington's chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open-heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, Wilson's disease, chronic renal failure, malignant neoplasm of the trachea, malignant neoplasm of the bronchus, malignant neoplasm of the lung, malignant neoplasm of the colon, short gestation period for a newborn child, and low birth weight of a newborn child;
- (15) "Incurred losses" means for Kentucky Access the excess of claims paid over premiums received;
- (16) "Insurer" is defined in KRS 304.17A-005(23)~~((22))~~;
- (17) "Kentucky Access" means the program established in accordance with KRS 304.17B-001 to 304.17B-031;
- (18) "Kentucky Access Fund" means the fund established in KRS 304.17B-021;
- (19) "Kentucky Health Care Improvement Authority" means the board established to administer the program initiatives listed in KRS 304.17B-003(5);
- (20) "Kentucky Health Care Improvement Fund" means the fund established for receipt of the Kentucky tobacco master settlement moneys for program initiatives listed in KRS 304.17B-003(5);
- (21) "MARS" means the Management Administrative Reporting System administered by the Commonwealth;
- (22) "Medicaid" means coverage in accordance with Title XIX of the Social Security Act, 42 U.S.C. secs. 1396 et seq., as amended;
- (23) "Medicare" means coverage under both Parts A and B of Title XVIII of the Social Security Act, 42 U.S.C. secs. 1395 et seq., as amended;
- (24) "Pre-existing condition exclusion" is defined in KRS 304.17A-220(3);
- (25) "Standard health benefit plan" means a health benefit plan that meets the requirements of KRS 304.17A-250;
- (26) "Stop-loss carrier" means any person providing stop-loss health insurance coverage;
- (27) "Supporting insurer" means all insurers, stop-loss carriers, and self-insured employer-controlled or bona fide associations; and
- (28) "Utilization management" is defined in KRS 304.17A-500(12).

Section 5. KRS 311.657 is repealed and reenacted as a new section of KRS Chapter 311A to be numbered 311A.027 and to read as follows:

- (1) No public agency, tax district, or other publicly funded emergency medical service first response provider or licensed ambulance service shall have a residence requirement for an employee of or volunteer for the organization.
- (2) The provisions of subsection (1) of this section shall not preclude an employer or agency specified in subsection (1) of this section from having a requirement for response to a specified location within a specified time limit for an employee or volunteer who is off duty but who is on call to respond for work.

Section 6. KRS 533.010 is amended to read as follows:

- (1) Any person who has been convicted of a crime and who has not been sentenced to death may be sentenced to probation, probation with an alternative sentencing plan, or conditional discharge as provided in this chapter.
- (2) Before imposition of a sentence of imprisonment, the court shall consider probation, probation with an alternative sentencing plan, or conditional discharge. Unless the defendant is a violent felon as defined in KRS 439.3401 or a statute prohibits probation, shock probation, or conditional discharge, after due consideration of the nature and circumstances of the crime and the history, character, and condition of the defendant, probation or conditional discharge shall be granted, unless the court is of the opinion that imprisonment is necessary for protection of the public because:
 - (a) There is substantial risk that during a period of probation or conditional discharge the defendant will commit another crime;

- (b) The defendant is in need of correctional treatment that can be provided most effectively by his commitment to a correctional institution; or
 - (c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.
- (3) In the event the court determines that probation is not appropriate after due consideration of the nature and circumstances of the crime, and the history, character, and condition of the defendant, probation with an alternative sentencing plan shall be granted unless the court is of the opinion that imprisonment is necessary for the protection of the public because:
- (a) There is a likelihood that during a period of probation with an alternative sentencing plan or conditional discharge the defendant will commit a Class D or Class C felony or a substantial risk that the defendant will commit a Class B or Class A felony;
 - (b) The defendant is in need of correctional treatment that can be provided most effectively by commitment to a correctional institution; or
 - (c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.
- (4) The court shall not determine that there is a likelihood that the defendant will commit a Class C or Class D felony based upon the fact that:
- (a) The defendant has never been convicted of, pled guilty to, or entered an Alford plea to a felony offense;
 - (b) If convicted of, having pled guilty to, or entered an Alford plea to a felony offense, the defendant successfully completed probation more than ten (10) years immediately prior to the date of the commission of the felony for which the defendant is now being sentenced and has had no intervening convictions, pleas of guilty, or Alford pleas to any criminal offense during that period; or
 - (c) The defendant has been released from incarceration for the commission of a felony offense more than ten (10) years immediately prior to the date of the commission of the felony for which the defendant is now being sentenced and has had no intervening convictions, pleas of guilty, or Alford pleas to any criminal offense during that period.
- (5) In making a determination under subsection (4) of this section, the court may determine that the greater weight of the evidence indicates that there is a likelihood that the defendant will commit a Class C or Class D felony.
- (6) Upon initial sentencing of a defendant or upon modification or revocation of probation, when the court deems it in the best interest of the public and the defendant, the court may order probation with the defendant to serve one (1) of the following alternative sentences:
- (a) To a halfway house for no more than twelve (12) months;
 - (b) To home incarceration with or without work release for no more than twelve (12) months;
 - (c) To jail for a period not to exceed twelve (12) months with or without work release, community service and other programs as required by the court;
 - (d) To a residential treatment program for the abuse of alcohol or controlled substances; or
 - (e) To any other specified counseling program, rehabilitation or treatment program, or facility.
- (7) If during the term of the alternative sentence the defendant fails to adhere to and complete the conditions of the alternative sentence, the court may modify the terms of the alternative sentence or may modify or revoke probation and alternative sentence and commit the defendant to an institution.
- (8) In addition to those conditions that the court may impose, the conditions of alternative sentence shall include the following and, if the court determines that the defendant cannot comply with them, then they shall not be made available:
- (a) A defendant sentenced to a halfway house shall:
 - 1. Be working or pursuing his or her education or be enrolled in a full-time treatment program;
 - 2. Pay restitution during the term of probation; and
 - 3. Have no contact with the victim of the defendant's crime;

- (b) A defendant sentenced to home incarceration shall:
 - 1. Be employed by another person or self-employed at the time of sentencing to home incarceration and continue the employment throughout the period of home incarceration, unless the court determines that there is a compelling reason to allow home incarceration while the defendant is unemployed;
 - 2. Pay restitution during the term of home incarceration;
 - 3. Enter a treatment program, if appropriate;
 - 4. Pay all or some portion of the cost of home incarceration as determined by the court;
 - 5. Comply with other conditions as specified; and
 - 6. Have no contact with the victim of the defendant's crime;
- (c) A defendant sentenced to jail with community service shall:
 - 1. Pay restitution during all or some part of the defendant's term of probation; and
 - 2. Have no contact with the victim of the defendant's crime; or
- (d) A defendant sentenced to a residential treatment program for drug and alcohol abuse shall:
 - 1. Undergo mandatory drug screening during term of probation;
 - 2. Be subject to active, supervised probation for a term of five (5) years;
 - 3. Undergo aftercare as required by the treatment program;
 - 4. Pay restitution during the term of probation; and
 - 5. Have no contact with the victim of the defendant's crime.
- (9) When the court deems it in the best interest of the defendant and the public, the court may order the person to work at community service related projects under the terms and conditions specified in KRS 533.070. Work at community service related projects shall be considered as a form of conditional discharge.
- (10) Probation with alternative sentence shall not be available as set out in KRS 532.045 and 533.060, except as provided in KRS 533.030(6)~~[(5)]~~.
- (11) The court may utilize a community corrections program authorized or funded under KRS Chapter 196 to provide services to any person released under this section.
- (12) When the court deems it in the best interest of the defendant and the public, the court may order the defendant to placement for probation monitoring by a private agency. The private agency shall report to the court on the defendant's compliance with his terms of probation or conditional discharge. The defendant shall be responsible for any reasonable charges which the private agency charges.
- (13) The jailer in each county incarcerating Class D felons may deny work release privileges to any defendant for violating standards of discipline or other jail regulations. The jailer shall report the action taken and the details of the violation on which the action was based to the court of jurisdiction within five (5) days of the violation.
- (14) The Department of Corrections shall, by administrative regulation, develop written criteria for work release privileges granted under this section.
- (15) Reimbursement of incarceration costs shall be paid directly to the jailer in the amount specified by written order of the court. Incarceration costs owed to the Department of Corrections shall be paid through the circuit clerk.
- (16) The court shall enter into the record written findings of fact and conclusions of law when considering implementation of any sentence under this section.

Section 7. KRS 353.500 is amended to read as follows:

It is hereby declared to be the public policy of this Commonwealth to foster conservation of all mineral resources, to encourage exploration for such resources, to protect correlative rights of land and mineral owners, to prohibit waste and unnecessary surface loss and damage and to encourage the maximum recovery of oil and gas from all deposits

thereof now known and which may hereafter be discovered; and to promote safety in the operation thereof. To that end, KRS 353.500 to 353.720 is enacted and shall be liberally construed to give effect to such public policy.

The General Assembly finds that governmental responsibility for regulating all aspects of oil and gas exploration, production, development, gathering, and transmission rests with state government. The department shall promulgate regulations relating thereto and take all actions necessary to assure efficient oil and gas operations and to protect the property, health, and safety of the citizens of the Commonwealth in a manner consistent with KRS Chapter 353, and to the exclusion of all other nonstate governmental entities except as provided in KRS Chapter 100. The department shall promulgate regulations relating to gathering lines within six (6) months of the effective date of this act. Nothing in this section shall be construed as limiting the rights of local governmental units to regulate the use of streets, highways, and rights-of-way. The department shall report quarterly to the Legislative Research Commission beginning July 1, 2003 through December 31, 2004. The report shall detail progress made in carrying out this section, and the efficacy of the regulatory programs implemented.

Section 8. KRS 353.520 is amended to read as follows:

- (1) KRS 353.500 to 353.720 shall apply to all lands located in the Commonwealth, however owned, including any lands owned or administered by any government or any agency or political subdivision thereof, over which the Commonwealth has jurisdiction under its police power.
- (2) The waste of oil and gas is hereby prohibited. The waste prohibited includes physical waste as that term is generally understood in the oil and gas industry and includes:
 - (a) The locating, drilling, equipping, operating or producing of any oil or gas well, or wells drilled, deepened, or reopened in a manner that causes, or tends to cause, a reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations, or contrary to any provision of, or any order, rule or regulation promulgated or issued under KRS 353.500 to 353.720;
 - (b) Permitting the migration of oil, gas or water from the stratum in which it is found into other strata, thereby ultimately resulting in the loss of recoverable oil or gas, or both;
 - (c) The drowning with water of any stratum or part thereof capable of producing oil or gas in paying quantities, except for secondary recovery purposes, or in hydraulic fracturing or other completion practices;
 - (d) The unreasonable damage to underground, fresh or mineral water supply, workable coal seams, or other mineral deposits in the operations for the discovery, development, production or handling of oil and gas;
 - (e) The unnecessary or excessive ~~surface~~ loss **of oil and gas by spillage or venting** or destruction of oil or gas or their constituents; and
 - (f) The drilling of more wells than are reasonably required to recover efficiently the maximum amount of oil and gas from a pool.
- (3) The production of oil or gas from any well in any pool unless a permit has been issued as required by KRS 353.500 to 353.720, or in violation of the spacing provisions of KRS 353.500 to 353.720, is prohibited; except that this subsection shall not prohibit the continuation of production of oil or gas from a well producing oil or gas on June 16, 1960.

Section 9. KRS 353.560 is amended to read as follows:

- (1) Without limiting its general authority, the department shall regulate:
 - (a)~~(1)~~ The drilling and plugging of all wells;
 - (b)~~(2)~~ The spacing or locating of wells; **and**
 - (c)~~(3)~~ The use of vacuum.~~;~~ **and**
- (2)~~(4)~~ **The department shall** make recommendations to the **U.S. Environmental Protection Agency and the Natural Resources and Environmental Protection Cabinet**~~[water pollution control commission]~~ as to disposal of salt water and oil field wastes.

Section 10. KRS 353.580 is amended to read as follows:

- (1) Each permit issued under KRS 353.500 to 353.720 shall expire one (1) year after the date issued, unless the drilling, deepening, or reopening of a well is commenced pursuant thereto prior to the expiration of the one (1) year period. However, the permit term shall be extended by one (1) year if, prior to the expiration date, the permit applicant notifies the department in writing of the applicant's request for an extension, ***notifies the owner, record coal lessee or mine licensee originally entitled to receive a copy of the plat under KRS 353.050***, submits an affidavit stating that the information in the original permit application is still correct, and submits a fee for the extension in an amount equal to the permit fee required by KRS 353.590. With respect to permits issued prior to July 15, 2002, no extension shall be granted for any permit in cases where there has been a complete severance of the ownership of the oil and gas from the ownership of the surface to be disturbed, unless the requested extension is agreed to in writing by the surface owner.
- (2) ***The extension of the permit term pursuant to subsection (1) of this section shall not create a right to object to the well location under KRS 353.060 nor to mediation under KRS 353.5901.***
- (3) All permits issued by the department under any previous statute shall continue in force as written, only if the drilling of the well has been commenced pursuant thereto on or before sixty (60) days after June 16, 1960.

Section 11. KRS 353.590 is amended to read as follows:

- (1) Any person seeking a permit required by KRS 353.570 shall submit to the department a written application in a form prescribed by the department.
- (2) Each application shall be accompanied by a specified fee as follows:
 - (a) The fee shall be three hundred dollars (\$300) for each well to be drilled, deepened, or reopened for any purpose relating to the production, repressuring, or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole.
 - (b) If the department receives delegation of authority for administration of the underground injection control program under Section 1425 of the Safe Drinking Water Act (Pub. L. 93-523 as amended), the department may, by administrative regulation, establish a fee or schedule of fees in an amount not to exceed fifty dollars (\$50) per well, in addition to the fees imposed by paragraph (a) of this subsection, upon each application to drill, deepen, or reopen a well for any purpose relating to the production, repressuring, or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole. The fees or schedule of fees to be established by administrative regulation shall not exceed an amount sufficient to recover the costs incurred by the department in administering the Underground Injection Control Program less any other state or federal funds which are made available for this purpose.
 - (c) All money paid to the State Treasurer for fees required by paragraph (b) of this subsection shall be for the sole use of the department in the administration of the Underground Injection Control Program under Section 1425 of the Safe Drinking Water Act (Pub. L. 93-523 as amended).
- (3) All money paid to the State Treasurer for licenses and fees required by KRS 353.500 to 353.720 shall be for the sole use of the department and shall be in addition to any moneys appropriated by the General Assembly for the use of the department.
- (4) Each application shall be accompanied by a plat, which shows the location and elevation of each well, prepared according to the administrative regulations promulgated under KRS 353.500 to 353.720. The plat shall be certified as accurate and correct by a professional land surveyor licensed in accordance with the provisions of KRS Chapter 322.
- (5) When any person submits to the Department of Mines and Minerals an application for a permit to drill a well, or to reopen, deepen, or temporarily abandon any well which is not covered by surety bond, the department shall, except as provided in this section, require from the well operator a bond in the sum of five hundred dollars (\$500) for a well to be drilled to a depth of five hundred (500) feet or less; one thousand dollars (\$1,000) for a well to be drilled to a depth between five hundred and one (501) feet and one thousand (1,000) feet; one thousand five hundred dollars (\$1,500) for a well to be drilled to a depth between one thousand and one (1,001) feet and one thousand five hundred (1,500) feet; two thousand dollars (\$2,000) for a well to be drilled to a depth between one thousand five hundred and one (1,501) feet and two thousand (2,000) feet; two thousand five hundred dollars (\$2,500) for a well to be drilled to a depth between two thousand and one (2,001) feet and two thousand five hundred (2,500) feet; three thousand dollars (\$3,000) for a well to be drilled to a depth between two thousand five hundred and one (2,501) feet and three thousand (3,000) feet; three

thousand five hundred dollars (\$3,500) for a well to be drilled to a depth between three thousand and one (3,001) feet and three thousand five hundred (3,500) feet; four thousand dollars (\$4,000) for a well to be drilled to a depth between three thousand five hundred and one (3,501) feet and four thousand (4,000) feet; and five thousand dollars (\$5,000) for a well to be drilled to a depth of more than four thousand (4,000) feet. The bonds shall be made in favor of the Department of Mines and Minerals, conditioned that the wells upon abandonment shall be plugged in accordance with the administrative regulations of the department and that all records required by the department be filed as specified. An operator may petition the department to amend the drilling depth and bond amount applicable to a particular well and shall not proceed to drill to a depth greater than that authorized by the department until the operator is so authorized except pursuant to administrative regulations promulgated by the department. The commission may establish a bond in a sum greater than five thousand dollars (\$5,000) for any well to be drilled to a depth of more than four thousand (4,000) feet if the members of the commission determine that the particular circumstances of the drilling of the well warrant an increase in the bond amount established above. All bonds shall remain in effect until the plugging of the well is approved by the department, or the bond is released by the department. Any well operator in lieu of the bond may file with the department a blanket bond in a sum of ten thousand dollars (\$10,000), covering all wells drilled or to be drilled in the Commonwealth by the principal in the bond, and the acceptance and approval by the department of the blanket bond shall be in full compliance with the above provision requiring an individual well bond. A deposit in cash or a bank-issued irrevocable letter of credit may serve in lieu of either of the individual well or blanket bonds. ***Individuals acquiring a single well for domestic use may post a combination bond which shall consist of a cash bond in the amount of one thousand dollars (\$1,000) plus a lien on the property to cover future plugging costs. Only one (1) combination bond may be posted by each individual,*** ~~and a property bond may be executed by an operator who owns all of the surface and mineral rights of a tract proposed for drilling].~~ A certificate of deposit, the principal of which is pledged in lieu of a bond and whose interest is payable to the party making the pledge, may also be accepted by the department. If an operator is required to post individual well bonds exceeding a total of five thousand dollars (\$5,000) or elects to post a blanket bond, the certificate of deposit shall be accepted by the department in lieu of that portion of the amount of the bonds exceeding five thousand dollars (\$5,000). The bond or bonds referred to in this section shall be executed by the well operator as principal and, if a surety bond, by a corporate surety authorized to do business in the Commonwealth. A deposit in cash shall serve in lieu of either of the above bonds; all cash bonds accepted by the department shall be deposited into an interest-bearing account, with the interest thereon payable to the special agency account known as the oil and gas well plugging fund, created in subsection (9) of this section, to be used in accordance with the purposes described therein. All cash bonds being held by the department on July 13, 1990, shall likewise be deposited in the interest-bearing account, with the proceeds to be used for the purposes established for the oil and gas well plugging fund. The bond amounts shall be applicable only to permits issued upon and after July 13, 1990. All bonds posted for permits issued prior to July 13, 1990, shall remain in full force and effect for the duration of the permits.

- (6) A successor to the well operator shall post bond, pay a twenty-five dollar (\$25) fee per well to the department, and notify the department in writing in advance of commencing use or operation of a well or wells. The successor shall assume the obligations of this chapter as to a particular well or wells and relieve the original permittee of responsibility under this chapter with respect to the well or wells. It shall be the responsibility of the selling operator to require the successor operator to post bond before use or operation is commenced by the successor and relief of responsibility under this chapter is granted to the original permittee.
- (7) If the requirements of subsection (5) of this section with respect to proper plugging upon abandonment and submission of all required records on all well or wells have not been complied with within the time limits set by the department, by administrative regulation, or by this chapter, the department shall cause a notice of noncompliance to be served upon the operator by certified mail, addressed to the permanent address shown on the application for a permit. The notice shall specify in what respects the operator has failed to comply with this chapter or the administrative regulations of the department. If the operator has not reached an agreement with the department or has not complied with the requirements set forth by it within forty-five (45) days after mailing of the notice, the bond shall be forfeited to the department.
- (8) A bond forfeited pursuant to the provisions of this chapter may be collected by an attorney for the department or by the Attorney General, after notice from the director.
- (9) All sums received under subsection (5) of this section or through the forfeiture of bonds shall be placed in the State Treasury and credited to a special agency account to be designated as the oil and gas well plugging fund, which shall be an interest-bearing account with the interest thereon payable to the fund. This fund shall be

available to the department and shall be expended for the plugging of any abandoned wells coming within the authority of the department pursuant to this chapter. The plugging of any well pursuant to this subsection shall not be construed to relieve the operator or any other person from civil or criminal liability which would exist except for the plugging. Any unencumbered and any unexpended balance of this fund remaining at the end of any fiscal year shall not lapse but shall be carried forward for the purpose of the fund until expended or until appropriated by subsequent legislative action.

- (10) Upon request by any person applying for a permit for a geological or structure test hole, the department shall keep the location and elevation of the hole confidential until the information is allowed to be released by the person obtaining the permit.
- (11) For the purpose of this chapter, "water supply well" shall not include:
 - (a) Any well for a potable water supply for domestic use or for livestock; or
 - (b) Any water well used primarily for cooling purposes in an industrial process.

Section 12. KRS 353.610 is amended to read as follows:

- (1) Except as provided in KRS 353.500 to 353.720, no permits shall be issued for the drilling, deepening, or reopening of any shallow well for the production of oil, unless the proposed location of the well shall be at least three hundred thirty (330) feet from the nearest *mineral* boundary of the premises upon which the well is to be drilled, deepened or reopened; and, the proposed location must be at least six hundred sixty (660) feet from the nearest oil producing well. This subsection shall not be construed to regulate the distance between wells which do not produce oil from the same pool.
- (2) Except as provided in KRS 353.500 to 353.720, no permit shall be issued for the drilling, deepening or reopening of any shallow well for the production of gas unless the proposed location of the well shall be at least five hundred (500) feet from the nearest *mineral* boundary of the premises upon which such well is to be drilled, deepened or reopened; and, the proposed location must be at least one thousand (1,000) feet from the nearest gas producing well. This subsection shall not be construed to regulate the distance between wells which do not produce gas from the same pool.
- (3) This section shall not apply:
 - (a) To wells drilled, deepened, or reopened for the injection of water, gas or other fluids into an oil or gas producing formation.
 - (b) To any well drilled, deepened or reopened in a pool or portion thereof, which is included in a secondary recovery program commenced or proposed, if the location or proposed location of the well conforms to a geometric pattern already established on all premises which will be offset and affected by the well.
 - (c) To wells drilled or deepened as water supply wells and geological or structure test holes; or
 - (d) To premises within the limits of any incorporated city, town or village which has enacted or enacts hereafter an ordinance regulating the location or spacing of wells for the production of oil and gas at distances of not less than the distances prescribed in this section.
 - (e) To wells for the production of oil to be drilled, deepened, or reopened and completed at a depth of less than two thousand (2,000) feet where there are no workable beds of coal at lesser depths and the formation from which the oil is expected to be extracted is not appreciably affected by factors, as determined by the commissioner, other than natural drainage. The location of wells for the production of oil coming within this exception shall be at least two hundred (200) feet from the nearest boundary of the premises upon which the well is to be drilled, deepened or reopened; and the proposed location must be at least four hundred (400) feet from the nearest oil producing well. This subsection shall not be construed to regulate the distance between wells which do not produce from the same pool.

Section 13. KRS 353.620 is amended to read as follows:

- (1) Notwithstanding KRS 353.610, if an application is submitted for a permit to drill, deepen, or reopen a well closer to a boundary or to another well than prescribed in KRS 353.610 and the application is accompanied by the written consent of all owners of oil and gas interests in *the adjacent*~~any~~ premises *directly affected by the prescribed boundary distances in Section 12 of this Act*, which will be offset by the proposed well, the department shall issue a permit for the well.

- (2) Notwithstanding KRS 353.610, the department may issue a permit for a well to be drilled, deepened, or reopened closer to a boundary or another well than prescribed in KRS 353.610, if the director, after notice and hearing, finds that topographical or other conditions are such as to make compliance with the requirements of KRS 353.610 unduly burdensome or in conflict with reasonably prudent methods and practices for the production of oil or gas.
- (3) Notwithstanding KRS 353.610, the department shall issue a permit for a well to be drilled, deepened, or reopened closer to a boundary than prescribed in KRS 353.610 if a pooling order has been issued pursuant to KRS 353.630.
- (4) If a permit is issued to drill, deepen, or reopen a well under subsection (1) or (2) of this section at a location closer to a well or boundary than prescribed in KRS 353.610, the department shall permit a like variance from the requirements of KRS 353.610 on all premises offset and adversely affected by the well.

Section 14. KRS 353.630 is amended to read as follows:

- (1) Whenever any separate tract of land is so situated because of size or other condition that it does not contain a location at which a well for oil or gas may be drilled, deepened, or reopened by reason of the spacing provisions of KRS 353.610, the department shall order, after notice and a hearing, the pooling of all oil and gas interests in the separate tract or in a portion thereof with all like interests in a contiguous tract or tracts, or portions thereof, as are necessary to afford the pooled tracts one (1) location for the drilling, deepening, or reopening of a well for the production of oil or gas in compliance with the spacing requirements of KRS 353.500 to 353.720. The department shall require the development and operation of all pooled acreage as a single leasehold estate in accordance with regulations and rules promulgated under KRS 353.500 to 353.720.
- (2) Whenever an operator proposes to drill, deepen, or reopen a well at a location that would require the pooling of separate tracts or interests in order to comply with the spacing requirements of KRS 353.610, and the operator has secured the written consent or agreement from the owners of at least fifty-one percent (51%) of the interests in each tract, or portions thereof, included in the proposed pooled acreage, the department shall, where it finds that the requirements of this subsection have been met, order, after notice and a hearing, the pooling of all oil and gas interests in all tracts, or portions thereof, that are included within the proposed pooled acreage as established by the spacing requirements of KRS 353.610. ***For purposes of this section, any unknown or nonlocatable owners shall be deemed to have consented or agreed to the pooling, provided that the operator has complied with the publication requirements of KRS 353.640(1) with respect to the unknown or nonlocatable owners.*** The department shall issue a permit to drill, deepen, or reopen the well and require the development and operation of the pooled acreage as a single leasehold estate in accordance with administrative regulations promulgated under KRS 353.500 to 353.720.
- (3) Whenever an operator proposes to drill, deepen, or reopen a well at a location that would require the pooling of interests or tracts in order to comply with the spacing requirements of KRS 353.610, and the operator owns or controls the right to develop the oil and gas underlying one hundred percent (100%) of the interests in each tract, or portions thereof, included in the proposed pooled acreage, the department shall, where it finds that the requirements of this subsection have been met, order, after notice and a hearing, the pooling of all oil and gas interests in all tracts, or portions thereof, that are included within the proposed pooled acreage established by the spacing requirements of KRS 353.610. The department shall issue a permit to drill, deepen, or reopen the well and require the development and operation of all pooled tracts as a single leasehold estate in accordance with administrative regulations promulgated under KRS 353.500 to 353.720.
- (4) No pooling as permitted by this section shall be ordered except:
 - (a) When an application has been filed to drill, deepen, or reopen a well within the distance limitations prescribed in KRS 353.610; and
 - (b) When a lessee or owner of an oil or gas interest in the tract shall request the pooling.
- (5) No pooling as permitted by this section shall be ordered with respect to any tract or portion thereof upon which a well is drilled, deepened, or reopened:
 - (a) Unless the pooling was requested prior to the commencement of the drilling, deepening, or reopening of the well by a lessee or owner of an oil and gas interest in a contiguous tract pursuant to subsection (1), (2), or (3) of this section; and

- (b) Unless the request, if made by the owner of an operating interest who elects to participate in the risk and cost of the drilling, deepening, or reopening of the well, is accompanied by a bond or other security satisfactory to and in an amount set by the director for the payment of such owner's share of the cost of drilling, deepening, or reopening the well.
- (6) Production from any well which is ordered pooled pursuant to KRS 353.500 to 353.720 shall be deemed for all purposes to have been so produced from each tract or portion thereof included in the pool in proportion to the amounts established in the pooling order.

Section 15. KRS 353.660 is amended to read as follows:

- (1) Any person to whom a permit is issued pursuant to KRS 353.500 to 353.720 shall file, within ninety (90) days after termination of operations conducted under the permit, with the department for transmittal to the Kentucky Geological Survey on forms to be furnished by the department the following information relating to the well:
 - (a) A copy of the driller's log certified to be true and accurate;
 - (b) The depth and thickness of all water zones encountered and logged;
 - (c) The depth of all showings of oil or gas;
 - (d) The depth and thickness of all coal seams encountered; and
 - (e) A true copy of all electrical surveys and similar logs and surveys taken. *If the person to whom the permit is issued obtains a copy of the electrical survey or similar log or survey in electronic form, the operator shall submit the electrical survey or similar log in electronic form if requested by the department.*
- (2) Upon request by the department, any person to whom a permit is issued shall save for the Kentucky Geological Survey samples of all cuttings from the well drilled or deepened pursuant to the permit for a period of ninety (90) days after completion thereof.
- (3) Upon request by any person furnishing information under this section, the information shall be kept confidential, for a period of one (1) year after the information is furnished by such person.
- (4) This section shall not apply to wells drilled or deepened as geological or structure test holes.

Section 16. (1) Notwithstanding KRS 7.123 to the contrary, any private investigating firm that has had its headquarters in the Commonwealth of Kentucky for at least two (2) years prior to July 15, 2002, shall receive a license issued under KRS Chapter 329A automatically upon filing the appropriate application and paying the appropriate fee to the board by October 1, 2003.

(2) Notwithstanding KRS 7.123 to the contrary, any person actively engaged in full-time or part-time investigatory work in this state as a private investigator or as an investigator for a law enforcement agency for a continuous period of at least two (2) years prior to July 15, 2002, shall receive a license as a private investigator issued under KRS Chapter 329A upon:

- (a) Filing an application with the board prior to October 1, 2003, including supporting documentation;
- (b) Paying the licensure fee; and
- (c) Passing the examination administered by the board in accordance with KRS 329A.025 unless the board, in its discretion and on a case by case basis, waives the examination requirement.

Section 17. The following KRS section is repealed:

311.655 Ambulance providers to maintain supply of epinephrine and disposable needles -- Protocols for use.

Approved March 20, 2003

CHAPTER 151**(SB 2)**

AN ACT relating to consensus forecasting.

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

Section 1. KRS 48.115 is amended to read as follows:

- (1) Except as provided for in subsection (4) of this section, the detailed revenue estimates for the general fund and the road fund required by KRS 48.120 shall be based on a consensus revenue forecast. The consensus revenue forecast shall be developed by the consensus forecasting group. The members of the consensus forecasting group shall be jointly selected by the state budget director and the Legislative Research Commission. The members shall be knowledgeable about the state and national economy and the revenue and financial conditions of the Commonwealth.
- (2) If, after the revenue estimates made as required under KRS 48.120, the **Legislative Research Commission or** state budget director determines that a revision to the revenue estimates is needed, the **Legislative Research Commission or** state budget director shall request a revision from the consensus forecasting group. The revised revenue estimates shall become the official revenue estimates.
- (3) The state budget director shall coordinate with the Revenue Cabinet and the Transportation Cabinet to ensure that the financial and revenue data required for the forecasting process is made available to the consensus forecasting group.
- (4) **Staff for the consensus forecasting group shall be provided by the Legislative Research Commission**~~[If the consensus forecasting group cannot agree on a consensus revenue forecast for the detailed revenue estimates required under KRS 48.120 or the revised revenue estimates as provided for under subsection (2) of this section, the official revenue estimates required by law shall be provided by the Governor's Office for Economic Analysis].~~

Became law March 22, 2003, without Governor's signature

CHAPTER 152**(SB 219)**

AN ACT relating to legislative involvement in litigation.

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

Section 1. KRS 418.075 is amended to read as follows:

When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding.

- (1) In any proceeding which involves the validity of a statute, the Attorney General of the state shall, before judgment is entered, be served with a copy of the petition, and shall be entitled to be heard, and if the ordinance or franchise is alleged to be unconstitutional, the Attorney General of the state shall also be served with a copy of the petition and be entitled to be heard.
- (2) In any appeal to the Kentucky Court of Appeals or Supreme Court or the federal appellate courts in any forum which involves the constitutional validity of a statute, the Attorney General shall, before the filing of the appellant's brief, be served with a copy of the pleading, paper, or other documents which initiate the appeal in the appellate forum. This notice shall specify the challenged statute and the nature of the alleged constitutional defect.
- (3) The Attorney General shall notify the Legislative Research Commission of:
 - (a) The receipt of a petition and the nature of any proceedings involving the validity of a statute; and
 - (b) The entering of a final judgment in those proceedings, if the Attorney General is a party to that action.

- (4) *Pursuant to Sections 43 and 231 of the Constitution of Kentucky, members of the General Assembly, organizations within the legislative branch of state government, or officers or employees of the legislative branch shall not be made parties to any action challenging the constitutionality or validity of any statute or regulation, without the consent of the member, organization, or officer or employee.*

Became law March 22, 2003, without Governor's signature.

CHAPTER 153

(SB 39)

AN ACT relating to the Capitol and Capitol Annex.

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

Section 1. KRS 56.463 is amended to read as follows:

The cabinet shall have the power and duty:

- (1) To determine the comparative needs and demands of the various state agencies for acquiring real estate and for building projects;
- (2) To purchase or otherwise acquire all real property determined to be needed for state use and upon the approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition, except as provided in KRS Chapters 175, 176, 177, and 180. All such acquisitions of real property or interests therein shall be made in accordance with KRS 45A.045;
- (3) To sell or otherwise dispose of all property, including any interest in real property, of the state that is not needed or has become unsuitable for public use or would be more suitable consistent with the public interest for some other use as determined by the secretary of the Finance and Administration Cabinet. All such sales or other disposition shall be made in accordance with KRS 45A.045;
- (4) (a) To control the use of any real property owned or otherwise held by the Commonwealth, or any state agency, and to determine for what periods of time and for what purposes any state agency may use the same, including the agency for whose use it was initially acquired or improved, and to determine what appropriate uses shall be made of such real property during periods that the cabinet finds the same is not required for the purposes of any particular state agency. The cabinet shall allocate to the General Assembly and the Legislative Research Commission the amount of space within the New State Capitol Annex, currently assigned to the legislative branch in the basement and on the first floor totalling forty-nine thousand six hundred thirty-eight (49,638) square feet; approximately twenty-four thousand four hundred fifty-two (24,452) square feet on the second floor from an imaginary line running north and south down the center of the center wing hallway of the building and all space to the east of this line, excluding mechanical areas, public entrances, and restrooms; approximately twenty-three thousand nine hundred forty (23,940) square feet on the third floor from an imaginary line running north and south down the center of the center wing hallway of the building and all space to the east of this line, excluding mechanical areas, public entrances, and restrooms; approximately twenty-two thousand fifty-six (22,056) square feet on the fourth floor from an imaginary line running north and south down the center of the center wing hallway of the building and all space to the east of this line, excluding mechanical areas, public entrances, and restrooms.~~[- The occupancy of the Capitol Annex by the legislative branch shall be phased in with the Capitol Annex renovation project and shall be completed no later than November 30, 1991.-]~~ All space assigned to the legislative branch and plans, uses, furnishings, and equipment therefor are subject to the specific approval of the Legislative Research Commission;
- (b) *All additional space in the New State Capitol Annex, not specifically allocated for use by the General Assembly and the Legislative Research Commission in paragraph (a) of this subsection, shall be allocated for the use of the legislative branch, with occupancy by the legislative branch to be determined by the Legislative Research Commission. Until the Legislative Research Commission, by vote of a majority of its entire membership, determines that the legislative branch shall occupy all or part of such additional space in the Capitol Annex, the cabinet shall continue to determine the occupancy of such additional space;*

(c) Forty percent (40%) of the ~~the additional~~ floor space provided by **paragraph (a) of this subsection**~~section~~ for use by the legislative branch shall be assigned for the use of the Senate. Sixty percent (60%) of the ~~the additional~~ floor space provided by **paragraph (a) of this subsection**~~section~~ for use by the legislative branch shall be assigned for the use of the House of Representatives; and

(d)~~(e)~~ To determine the housing and furnishings needs of the various state agencies located in Frankfort and to establish and put into effect a permanent program for housing them. Subject to **paragraphs**~~paragraph~~ (a) **and (b)** of this subsection, the cabinet is also authorized and directed to allocate office space and furnishings in existing public buildings located in Frankfort, exclusive of the third and fourth floors of the New State Capitol **and the space in the New State Capitol Annex allocated to the legislative branch**, according to the needs of the various agencies.~~and~~ When necessary, **the cabinet is authorized** to provide additional office space and furnishings in Frankfort under any building program the cabinet deems most advisable and economical for the state. The permanent housing program shall include provisions for housing the General Assembly and its related agencies, including the Legislative Research Commission, and its subcommittees, the executive offices, the Supreme Court and the clerk of the Supreme Court, the Department of Law and the law library, in the New State Capitol, provided the General Assembly and the Legislative Research Commission shall have complete control and exclusive use of the third and fourth floors of the New State Capitol and shall have exclusive use of the space in the New State Capitol Annex allocated to them under **paragraphs**~~paragraph~~ (a) **and (b)** of this subsection. If there be any additional space in the Capitol, it shall be assigned to agencies whose activities are most closely related to the agencies directed to be located permanently in the Capitol;

- (5) To acquire, by condemnation in the manner provided in the Eminent Domain Act of Kentucky, any real estate necessary for use by the state or by any state agency, when the cabinet is unable to agree with the owner thereof on a price for such real estate;
- (6) To lease any real property, or any interest in such real property, owned by the state or any agency thereof, in accordance with KRS 45A.045;
- (7) To provide for and adopt plans and specifications as may be necessary, to provide adequate public notice for and receive bids for any expenditures proposed to be made, to award contracts for the purpose authorized, to supervise construction and make changes and revisions in plans and specifications or in construction as may become necessary, and generally to do any and all other things as may become necessary or expedient in order to effectively fulfill and carry out the purposes of this chapter, including the right to employ clerks, engineers, statisticians, architects, or other persons required to be employed in order to fulfill the functions of the Commonwealth relating to state property and buildings provided in KRS 56.450 to 56.550; and
- (8) To adopt rules and promulgate administrative regulations as may be necessary to govern the acquisition, control, and disposition of the real property to which this section is applicable.

Became law March 22, 2003, without Governor's signature

CHAPTER 154

(HB 271)

AN ACT relating to the naming of colleges in the Kentucky Community and Technical College System.

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

Section 1. KRS 164.595 is amended to read as follows:

- (1) The board of regents for the Kentucky Community and Technical College System shall designate ***the names of colleges within the system. A college created by the merger of the Paducah Community College and the West Kentucky Technical College shall be known as the West Kentucky Community and Technical College***~~each community college with a name that includes the words "Community College." The names of community colleges on May 30, 1997, shall be retained~~.

- (2) The board shall encourage and may accept donations of land or funds or both to be used in the acquisition, construction, or operation of ~~community~~ colleges **within the system**. The board may commemorate donations from private persons or corporations with suitable memorials.
- (3) The board may accept federal grants to be used in the acquisition, construction, or operation of ~~its community~~ colleges.

Approved March 25, 2003

CHAPTER 155

(HB 430)

AN ACT relating to retirement.

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

Section 1. 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, **except as provided in subsection (8) of this section**. 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.
- (b) 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, **except as provided in subsection (8) of this section**. 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.
- (c) ~~(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 employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who becomes disabled in the line of duty as defined in KRS 16.505(19) or KRS 61.621, shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who is killed in the line of duty as defined in KRS 16.505(19) or KRS 61.621, 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.
 - (8) *For employees hired on or after July 1, 2003, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred and twenty (120) months of service in the state administered retirement systems. An employee who earns at least one hundred and twenty (120) months of service in the state administered retirement systems, shall be eligible for benefits determined using the formula in subsection (3) of this section for a recipient with one hundred and twenty (120) or more months of service. The one hundred twenty (120) months of service requirement shall be waived for a member who is disabled or killed in the line of duty as defined in KRS 16.505(19) or KRS 61.621, and the member or his beneficiary shall be entitled to the benefits payable under subparagraph (3)(a)5. of this section. The benefits of this subsection as provided on July 1, 2003, and thereafter shall not*

be considered as benefits protected by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in their judgment the welfare of the Commonwealth so demands.

Approved March 25, 2003

CHAPTER 156

(HB 269)

AN ACT relating to appropriations and revenue measures providing financing for the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state-supported activities.

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

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, Road Fund, Restricted Funds accounts, or Federal Funds accounts for the fiscal year beginning July 1, 2002, and ending June 30, 2003, and for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following discrete sums, or so much thereof as may be necessary. Appropriated funds are included pursuant to KRS 48.700 and 48.710. Each appropriation is made by source of respective fund or funds accounts. Appropriations for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units of the state government, and any and all other activities of the government of the Commonwealth, are subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes and compliance with the conditions and procedures set forth in this Act.

Appropriations identified as General Fund (Tobacco) in Part I, Operating Budget, are representative of the amounts provided in Part XI, Phase I Tobacco Settlement, and are not to be appropriated in duplication.

In the event that appropriations in this Act are less than annual allotments assigned to a budget unit for fiscal year 2002-2003 in July 2002 by the Finance and Administration Cabinet, the cabinet secretary or constitutional officer with authority over the budget unit shall have the discretion to apply or distribute the reduction, including personnel reductions, to programs, accounts, or activities within the budget unit.

A. GOVERNMENT OPERATIONS

Budget Units

1. EXECUTIVE OFFICE OF THE GOVERNOR

a. Office of the Governor

	2002-03	2003-04
General Fund	7,452,100	7,093,900
Restricted Funds	2,231,000	1,298,200
Federal Funds	71,000	71,000
TOTAL	9,754,100	8,463,100

Included in the above General Fund appropriation is \$750,000 in fiscal year 2003-2004, which shall lapse to the credit of the General Fund, effective December 1, 2003. Included in the above General Fund appropriation is \$250,000 in fiscal year 2003-2004 which shall be utilized to provide the state's share of federal matching requirements for a grant from the U.S. Department of Energy to the Purchase Area in Western Kentucky to support land use and development in the Purchase Regional Industrial Park Authority.

Included in the above General Fund appropriation is \$417,500 in fiscal year 2003-2004, in the Office of the Lieutenant Governor for personnel and operating expenses, including the Lieutenant Governor's expense allowance. Included in the above General Fund appropriation is \$18,000 in fiscal year 2002-2003 and \$18,000 in fiscal year 2003-2004 for the Governor's expense allowance and \$10,000 in fiscal year 2002-2003 and \$10,000 in fiscal year

2003-2004 for the Lieutenant Governor's expense allowance to meet additional expenses associated with the position of Governor of Kentucky and the position of Lieutenant Governor as specified in KRS 64.710.

Notwithstanding KRS 42.037, effective December 8, 2003, the Secretary of the Finance and Administration Cabinet shall expend no state funds for a residence for the Lieutenant Governor, except for expenses necessary to maintain property owned by the Commonwealth. Notwithstanding KRS 42.037, 30 days after the effective date of this Act, the Secretary of the Finance and Administration Cabinet shall expend no state funds for staff or services for the residence of the Lieutenant Governor, other than expenses necessary to maintain property owned by the Commonwealth.

The Governor shall provide the Lieutenant Governor a vehicle pursuant to KRS 44.045(1).

The Department of State Police shall not provide security or transportation services to the Lieutenant Governor unless the Commissioner of the Department of State Police makes a determination that specific security measures are warranted or the Governor allocates executive security to the Lieutenant Governor from the current complement of the Kentucky State Police sworn officers assigned directly to the Governor.

Notwithstanding KRS 132.020(9), effective July 1, 2003, funds are not provided to the Coal Marketing and Export Council from the property tax on unmined coal. Included in the above Restricted Funds appropriation is \$300,000 in fiscal year 2002-2003 and \$300,000 in fiscal year 2003-2004 from the multi-county coal severance tax receipts fund. Notwithstanding KRS 45.229, any General Fund or Restricted Funds support for the operations of the Coal Marketing and Export Council that are included in the above appropriations and remaining in the balance at the end of fiscal year 2002-2003 shall not be carried forward into fiscal year 2003-2004 but shall lapse to the credit of the General Fund.

Effective September 1, 2003, funds are not provided for the operations of the Washington, D.C. Office. Any General Fund or Restricted Funds support for the operations of the Washington, D.C. Office that are included in the above appropriations and remaining in the balance at the end of fiscal year 2002-2003 shall not be carried forward into fiscal year 2003-2004 but shall lapse to the credit of the General Fund.

b. Office of State Budget Director

	2002-03	2003-04
General Fund	3,365,000	3,365,000
Restricted Funds	923,000	1,318,000
TOTAL	4,288,000	4,683,000

c. State Planning Fund

	2002-03	2003-04
General Fund	477,000	0

The Governor is authorized to expend funds for the improvement and advancement of governmental purposes and activities. Included in the above General Fund appropriation is a grant of \$25,000 in fiscal year 2002-2003 to be awarded to the Bluegrass State Games to assist with planning and production of the games.

TOTAL - EXECUTIVE OFFICE OF THE GOVERNOR

	2002-03	2003-04
General Fund	11,294,100	10,458,900
Restricted Funds	3,154,000	2,616,200
Federal Funds	71,000	71,000
TOTAL	14,519,100	13,146,100

2. GOVERNOR'S OFFICE FOR TECHNOLOGY

	2002-03	2003-04
General Fund	300,000	300,000
Restricted Funds	60,092,500	59,718,000

Federal Funds	1,225,000	0
Road Fund	125,000	125,000
TOTAL	61,742,500	60,143,000

Included in the above Restricted Funds appropriation is \$536,000 in fiscal year 2002-2003 and \$536,000 in fiscal year 2003-2004 to fund the operating costs of the Office for Geographic Information Systems. These receipts will be derived from any state agency or university that benefits from the implementation of the Geographic Information Systems basemap technology. The Office of Geographic Information Systems shall recommend, and the Chief Information Officer (CIO) shall approve, the cost allocation plan. Upon approval by the CIO, the agencies and universities shall pay their proportional share of the plan.

3. DEPARTMENT OF VETERANS' AFFAIRS

	2002-03	2003-04
General Fund	14,072,800	15,163,700
Restricted Funds	18,609,100	19,332,000
TOTAL	32,681,900	34,495,700

4. GOVERNOR'S OFFICE OF EARLY CHILDHOOD DEVELOPMENT

	2002-03	2003-04
General Fund (Tobacco)	2,188,400	2,188,400
General Fund	213,500	213,500
Restricted Funds	50,000	0
Federal Funds	175,000	175,000
TOTAL	2,626,900	2,576,900

5. KENTUCKY INFRASTRUCTURE AUTHORITY

	2002-03	2003-04
General Fund (Tobacco)	0	5,000,000
General Fund	0	8,311,000
Restricted Funds	6,067,500	2,568,000
Federal Funds	50,313,000	50,312,000
TOTAL	56,380,500	66,191,000

Included in the above General Fund appropriation is \$3,311,000 in fiscal year 2003-2004 for debt service, including \$2,283,000 for the Kentucky Pride Program.

Included in the above General Fund appropriation is \$5,000,000 in fiscal year 2003-2004 for debt service provided from Coal Severance Tax Receipts for the Water and Sewer Resources Development Fund for Coal Producing Counties Bond Pool Project in Part II, Capital Projects Budget.

Included in the above General Fund (Tobacco) appropriation is \$5,000,000 in fiscal year 2003-2004 for debt service for the Water and Sewer Resources Development Fund for Tobacco Counties Bond Pool Project in Part II, Capital Projects Budget. Future debt service payments for the Water and Sewer Resources Development Fund for Tobacco Counties shall be provided from the General Fund. Notwithstanding any other provision in this Act, any unneeded debt service up to \$2,282,500 for this project shall lapse to the credit of the General Fund.

6. GOVERNOR'S OFFICE OF AGRICULTURAL POLICY

	2002-03	2003-04
General Fund (Tobacco)	47,688,000	34,434,000
Restricted Funds	155,900	161,000

TOTAL	47,843,900	34,595,000
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7. KENTUCKY AGENCY FOR SUBSTANCE ABUSE POLICY

	2002-03	2003-04
General Fund (Tobacco)	2,574,800	2,236,600
General Fund	1,250,000	1,250,000
Federal Funds	111,700	111,700
TOTAL	3,936,500	3,598,300

Included in the above General Fund appropriation is \$225,000 in fiscal year 2002-2003 to be transferred to the Department for Medicaid Services to partially offset the costs of the projected Medicaid budget deficit.

8. SECRETARY OF STATE

	2002-03	2003-04
General Fund	2,260,100	2,260,100
Restricted Funds	878,500	1,006,600
TOTAL	3,138,600	3,266,700

Notwithstanding KRS 14.140, the above Restricted Funds appropriations shall be used for the continuation of current activities within the General Administration unit and for the operations and staff of the Uniform Commercial Code Branch.

9. BOARD OF ELECTIONS

	2002-03	2003-04
General Fund	5,880,000	4,925,800
Restricted Funds	108,600	116,900
TOTAL	5,988,600	5,042,700

Included in the above General Fund appropriation in fiscal year 2002-2003 is \$1,100,000 state matching funds required to access Federal Funds made available by Congress under the Help America Vote Act of 2002, and notwithstanding KRS 45.229, any funds unexpended by the State Board of Elections for this purpose at the close of the fiscal year for which the funds were appropriated and otherwise made available shall not lapse but shall be carried forward into the following fiscal year, and shall be used solely for the purposes specified in Section 1 of the Help America Vote Act. Amounts in excess of those included in the above General Fund appropriation for this purpose, not to exceed \$1,000,000, shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

Included in the above General Fund appropriation is \$3,412,100 in fiscal year 2002-2003 and \$3,557,900 in fiscal year 2003-2004 to pay the state's share of county election expenses (KRS 117.345) and the state's share of voter registration expenses (KRS 116.145 and 117.343).

Notwithstanding KRS 117.345(2), the maximum state payment rate is increased from the current statutory level of \$255 to \$300 per precinct per election to each precinct using voting machines. Any amount that the state is required to pay under the provisions of KRS 116.145, 117.343, and 117.345 shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

Notwithstanding KRS 116.055, 117.066, 117.275, 118.025(4), 118.215, 118.225, 118.245, 121.180, 121A.030, 121A.060, 121A.080, or any other provision of law to the contrary, no runoff primary election shall be held for slates of candidates for Governor and Lieutenant Governor, and the slate of candidates for Governor and Lieutenant Governor receiving the highest number of votes in a primary election shall be the nominees of that party for Governor and Lieutenant Governor, and that slate of candidates shall receive the certificate of nomination.

10. TREASURY

2002-03	2003-04
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General Fund	2,216,700	2,216,700
Restricted Funds	815,700	834,500
TOTAL	3,032,400	3,051,200

Included in the Restricted Funds appropriation above is a recurring transfer from the Unclaimed Property Fund. In each respective fiscal year of the 2002-2004 biennium, \$807,900 and \$834,500 is appropriated to provide funding for services performed by the Unclaimed Property Division of the Treasury Department.

11. ATTORNEY GENERAL

	2002-03	2003-04
General Fund	12,954,900	12,932,500
Restricted Funds	6,747,400	7,269,900
Federal Funds	2,351,400	2,351,400
TOTAL	22,053,700	22,553,800

The \$30,000 continuing General Fund appropriation from fiscal year 2001-2002 is for the purpose of notifying consumers, not otherwise notified by Ford Motor Company, of their eligibility for possible restitution as a result of the multistate settlement agreement with Ford Motor Company. Since the settlement award was not deposited prior to the end of fiscal year 2001-2002, the General Fund appropriation for the notification of consumers regarding the Ford Motor Company settlement did not lapse, notwithstanding KRS 45.229, and was carried forward into fiscal year 2002-2003 for the same purpose. If the settlement award is deposited subsequent to fiscal year 2002-2003, the General Fund appropriation for the notification of consumers regarding the Ford Motor Company settlement shall not lapse, notwithstanding KRS 45.229, and shall be carried forward into fiscal year 2003-2004 for the same purpose.

12. UNIFIED PROSECUTORIAL SYSTEM

a. Commonwealth's Attorneys

	2002-03	2003-04
General Fund	25,108,000	26,545,300
Restricted Funds	843,300	200,000
Federal Funds	976,300	739,300
TOTAL	26,927,600	27,484,600

Included in the above General Fund appropriation is \$258,400 in fiscal year 2002-2003 and \$259,400 in fiscal year 2003-2004 to support a Commonwealth's Attorney and staff to service the 57th Judicial Circuit as authorized by the 2001 General Assembly.

Notwithstanding KRS 218A.435(12), second sentence, which reads, "The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient.", funds are recommended for appropriation to support the operations of the Commonwealth's Attorneys.

Included in the above General Fund appropriation are funds to provide each full-time Commonwealth's Attorney the sum of \$1,000 each month, which is declared to be the equivalent of the minimum sum that the Commonwealth's Attorney will expend each month in the performance of the official duties directed to be performed for the Commonwealth.

Included in the above General Fund appropriation is \$116,200 in fiscal year 2002-2003 and \$106,400 in fiscal year 2003-2004 to provide funding for a full-time Commonwealth's Attorney office in the 40th Judicial Circuit.

Notwithstanding KRS 15.247, 15.705, and 15.750 funds are authorized to support the operations of the Commonwealth's Attorneys.

b. County Attorneys

	2002-03	2003-04
General Fund	21,179,900	22,177,500

Restricted Funds	62,300	4,800
Federal Funds	414,700	434,800
TOTAL	21,656,900	22,617,100

Notwithstanding KRS 218A.435(12), second sentence, which reads, "The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient.", funds are recommended for appropriation to support the operations of the County Attorneys.

Included in the above General Fund appropriation are funds to provide each County Attorney the sum of \$500 each month, which is declared to be the equivalent of the minimum sum that each County Attorney will expend each month in the performance of the official duties directed to be performed for the Commonwealth.

Notwithstanding KRS 15.247 and 15.705, funds are authorized to support the operations of the County Attorneys.

TOTAL - UNIFIED PROSECUTORIAL SYSTEM

	2002-03	2003-04
General Fund	46,287,900	48,722,800
Restricted Funds	905,600	204,800
Federal Funds	1,391,000	1,174,100
TOTAL	48,584,500	50,101,700

13. AUDITOR OF PUBLIC ACCOUNTS

	2002-03	2003-04
General Fund	5,260,000	5,235,000
Restricted Funds	3,940,500	4,377,100
TOTAL	9,200,500	9,612,100

Notwithstanding KRS 43.200, no funding is provided for Auditor's scholarships.

14. AGRICULTURE

	2002-03	2003-04
General Fund	19,249,900	19,484,900
Restricted Funds	3,506,200	3,573,800
Federal Funds	2,955,000	2,130,000
TOTAL	25,711,100	25,188,700

Included in the above General Fund appropriation is \$50,000 in fiscal year 2002-2003 for West Nile Virus program mosquito eradication. Included in the above General Fund appropriation is \$478,500 in fiscal year 2002-2003 and \$478,500 in fiscal year 2003-2004 for the Breathitt Veterinary Center and \$370,000 in fiscal year 2002-2003 and \$370,000 in fiscal year 2003-2004 for the University of Kentucky for the diagnostic laboratories.

Included in the above General Fund appropriation is \$100,000 in each fiscal year for the Agriculture/Economic Development joint trade office in Mexico. Notwithstanding KRS 45.229, any unexpended General Fund moneys appropriated for the Mexico Trade Office shall be continued into the succeeding fiscal year, and the Cabinet for Economic Development shall assist in seeking and obtaining matching funds for the joint trade office.

Included in the above General Fund appropriation is \$250,000 in fiscal year 2002-2003 and \$250,000 in fiscal year 2003-2004 to carry out the provisions of KRS 438.335. Included in the above General Fund appropriation is \$285,000 in fiscal year 2003-2004 for debt service for animal shelter projects.

Included in the General Fund appropriation for the Department of Agriculture is \$10,000 in fiscal year 2002-2003 and \$10,000 in fiscal year 2003-2004 to support the costs associated with preparing reports for the Kentucky Aquaculture Task Force as directed in Part IX, Special Provisions, Government Operations, Department of Agriculture, in this Act. Notwithstanding KRS 45.229, any unexpended amount at the end of fiscal year 2002-2003

shall not lapse, but shall carry forward to fiscal year 2003-2004. Any unexpended amount remaining following the completion of the reports shall lapse to the credit of the General Fund.

15. MILITARY AFFAIRS

	2002-03	2003-04
General Fund	10,694,400	10,694,400
Restricted Funds	18,680,500	18,796,200
Federal Funds	40,720,900	18,187,800
TOTAL	70,095,800	47,678,400

There is appropriated from the General Fund the necessary funds to be expended, subject to the conditions and procedures provided in this Act, which are required as a result of the Governor's call of the Kentucky National Guard to active duty when an emergency or exigent situation has been declared to exist by the Governor. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures in this Act, which are required to match federal aid to which the state would be eligible in the event of a presidentially declared disaster or emergency. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

Included in the above General Fund appropriation is \$420,000 in each fiscal year for the Youth Challenge Program.

16. PERSONNEL BOARD

	2002-03	2003-04
General Fund	578,500	578,500
Restricted Funds	1,700	1,700
TOTAL	580,200	580,200

17. LOCAL GOVERNMENT

	2002-03	2003-04
General Fund	8,773,900	9,623,800
Restricted Funds	2,235,800	902,400
Federal Funds	52,433,900	52,430,800
TOTAL	63,443,600	62,957,000

Included in the above General Fund appropriation is \$1,086,000 in fiscal year 2003-2004 for debt service.

18. SPECIAL FUNDS

a. Local Government Economic Assistance Fund

	2002-03	2003-04
General Fund	32,866,200	31,184,100

b. Local Government Economic Development Fund

	2002-03	2003-04
General Fund	40,028,300	41,208,400

The above appropriations from the General Fund are based on the official estimate presented by the Office of State Budget Director for coal severance tax collections during the biennium, distributed in accordance with KRS 42.450 to 42.495. Notwithstanding KRS 42.4582, moneys transferred from the General Fund to the Local Government Economic Development Fund shall be calculated at the percentage of 47 percent effective July 1, 2002.

Moneys transferred from the General Fund to the Local Government Economic Development Fund shall be calculated at 50 percent effective July 1, 2003. If actual coal severance tax receipts are different from the official estimate, the amount to be allotted to the Local Government Economic Assistance Fund shall be determined in accordance with KRS 42.450 to 42.495 and the amount to be allotted to the Local Government Economic Development Fund shall continue to be calculated at the percentages specified in this paragraph and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4585, the quarterly calculation and transfer of the funds pursuant to KRS 42.4585 shall be made only after each quarterly installment of the annual appropriation of \$1,000,000 in fiscal year 2002-2003 and \$1,000,000 in fiscal year 2003-2004 has been credited to the Trover Clinic Grant within the Department for Local Government.

Notwithstanding KRS 42.4582, the quarterly calculation and transfer of moneys from the General Fund to the Local Government Economic Development Fund pursuant to KRS 42.4582 shall be made only after each quarterly installment of the annual appropriation of \$1,407,100 in fiscal year 2002-2003 and \$1,480,200 in fiscal year 2003-2004 has been credited to the Osteopathic Scholarship Program within the Kentucky Higher Education Assistance Authority.

Notwithstanding KRS 42.4585, the amount transferred annually from the Local Government Economic Development Fund into the Local Government Economic Assistance Fund under the provisions of KRS 42.4585 shall not be less than an amount equal to 14.5 percent in fiscal year 2002-2003. In fiscal year 2003-2004 the amount shall be equal to 15 percent of the severance and processing taxes on coal collected annually and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of \$472,000 in fiscal year 2002-2003 has been transferred as Restricted Funds to the East Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of \$467,000 in fiscal year 2002-2003 has been transferred as Restricted Funds to the West Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4588, funds totaling \$467,000 in fiscal year 2003-2004 shall be transferred from the Local Government Economic Development Fund Multi-County Fund to the West Kentucky Corporation.

Notwithstanding KRS 42.4588, funds totaling \$300,000 in fiscal year 2002-2003 and \$300,000 in fiscal year 2003-2004 shall be transferred from the Local Government Economic Development Fund Multi-County Fund to the Coal Export Council.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of \$770,500 in fiscal year 2002-2003 and \$783,600 in fiscal year 2003-2004, has been transferred as Restricted Funds to the Department for Regional Development within the Cabinet for Economic Development.

Notwithstanding KRS 42.4592, the quarterly calculation for the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of \$550,000 in fiscal year 2002-2003 and \$550,000 in fiscal year 2003-2004 has been credited to the Kentucky Appalachian Commission and Appalachian Regional Commission for related expenditures.

Notwithstanding KRS 42.4586, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of \$960,800 in fiscal year 2002-2003 has been credited to the Secondary Wood Products Development Fund. The Kentucky Wood Products Competitiveness Corporation shall emphasize job creation in the Eastern and Western Kentucky Coal Regions. The Kentucky Wood Products Competitiveness Corporation Board, as established pursuant to KRS 154.47-015, shall direct that all available liquid assets be utilized to pay debts of the Corporation.

Any equipment of the Kentucky Wood Products Competitiveness Corporation in use at a public institution shall be transferred to that institution.

Notwithstanding KRS 342.122(1)(c), \$19,000,000 from the General Fund shall not be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission in fiscal year 2002-2003 and fiscal year 2003-2004.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of \$100,000 in fiscal year 2002-2003 has been credited to the Kentucky Coal Coalition from funds available to the Department for Local Government.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of \$1,035,000 in fiscal year 2002-2003 and \$1,250,000 in fiscal year 2003-2004 that shall be reserved for the high-tech construction/investment pools created under KRS 154.12-278. Notwithstanding KRS 42.4588(4) and 42.4588(5), these funds will be used for projects and programs recommended by the Office of the Commissioner for the New Economy in the Cabinet for Economic Development and approved by the Commissioner of the Department for Regional Development in the Cabinet for Economic Development. The projects identified are limited to research and development, commercialization, or work-related initiatives consistent with the character of the high-tech construction and high-tech investment pools administered by the Office for the New Economy. Investment and construction pool projects shall be targeted solely to Kentucky's Local Government Economic Development Fund eligible counties.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 in fiscal year 2003-2004 shall be made only after funds totaling \$2,290,000 are transmitted to the School Facilities Construction Commission to provide debt service to support Bond Funds for "Category 5" school buildings (poorest condition) in accordance with the Kentucky Department of Education's Building Assessment document of March 4, 2003. All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there are sufficient moneys available to be transferred from coal severance tax supported funding program accounts to other accounts of the General Fund. Debt service assistance to each district shall be determined by funding based on unmet need pursuant to KRS 157.620, calculated utilizing Cash Balances and Bonding Potential available for the project with the Kentucky Department of Education's Building Assessment document of March 4, 2003. These offers shall be administered in accordance with 750 KAR 1:010 where not in conflict with the language in this paragraph.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of \$1,999,800 in fiscal year 2003-2004 has been lapsed to the General Fund to be used by the Kentucky Infrastructure Authority to provide General Fund debt service to support Bond Funds for the Water and Sewer Resources Development Fund for Coal Producing Counties.

Notwithstanding KRS 42.4588, funds totaling \$3,000,200 in fiscal year 2003-2004 shall be lapsed from the Local Government Economic Development Fund Multi-County Fund to the General Fund to be used by the Kentucky Infrastructure Authority to provide General Fund debt service to support Bond Funds for the Water and Sewer Resources Development Fund for Coal Producing Counties.

All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there are sufficient moneys available to be transferred from coal severance tax supported funding program accounts to other accounts of the General Fund.

Notwithstanding KRS 42.4588, funds totaling \$1,474,000 in fiscal year 2002-2003 shall be transferred from the Local Government Economic Development Fund Multi-County Fund to the Cabinet for Health Services, Department for Public Health, for the Kentucky All Schedule Prescription Electronic Reporting System.

Notwithstanding KRS 42.4588, the Commissioner of the Department for Regional Development, in consultation with affected counties, shall be authorized to approve Local Government Economic Development Fund grants for job training and telecommunications infrastructure projects. The Commissioner is further authorized to prioritize funding of projects in the following order: industrial development projects, job training projects, and any other eligible projects or projects funded out of the Local Government Economic Development Fund.

Notwithstanding KRS 42.4588, the Cabinet for Economic Development is authorized to provide, in fiscal year 2002-2003, \$1,000,000 for the East Kentucky Development Alliance to support a revolving loan fund, \$1,000,000 to support the Appalachian Regional Hospital Project, and \$2,000,000 for the Appalachia Bus Program from the Local Government Economic Development Fund Multi-County Fund.

Pursuant to the authority given in KRS 42.485, the continuing appropriation amount from fiscal year 2001-2002 to fiscal year 2002-2003 and from fiscal year 2002-2003 to fiscal year 2003-2004 shall equal the dollar amount that the Local Government Economic Development and Local Government Economic Assistance Funds have the statutory authority to expend.

c. Area Development Fund

	2002-03	2003-04
General Fund	830,500	830,500

Notwithstanding KRS 48.185, funds appropriated from the General Fund for the Area Development Fund shall be limited to these amounts.

TOTAL - SPECIAL FUNDS

	2002-03	2003-04
General Fund	73,725,000	73,223,000

19. COMMISSION ON HUMAN RIGHTS

	2002-03	2003-04
General Fund	1,926,800	1,926,800
Restricted Funds	24,000	24,000
Federal Funds	572,600	170,800
TOTAL	2,523,400	2,121,600

20. COMMISSION ON WOMEN

	2002-03	2003-04
General Fund	269,900	269,900
Restricted Funds	0	4,600
Federal Funds	0	200
TOTAL	269,900	274,700

21. COMMISSION ON SMALL BUSINESS ADVOCACY

	2002-03	2003-04
General Fund	75,000	75,000
Restricted Funds	45,000	45,000
TOTAL	120,000	120,000

22. KENTUCKY RETIREMENT SYSTEMS

	2002-03	2003-04
Restricted Funds	14,980,500	15,847,500

23. REGISTRY OF ELECTION FINANCE

	2002-03	2003-04
General Fund	1,436,800	1,436,800
Restricted Funds	202,800	203,200
TOTAL	1,639,600	1,640,000

Notwithstanding KRS 118.255(3), 121.150, 121A.015(5), 121A.020, 121A.030, 121A.040, 121A.060, and 121A.080, no funds shall be appropriated to or received into the election campaign fund established by KRS 121A.020, and the Registry of Election Finance shall make no transfer of funds to any slate of candidates from the election campaign fund for any election. Notwithstanding KRS 121.150(24) and 121A.030(5), slates of candidates may accept contributions within the last 28 days immediately preceding a primary or general election, and in addition to the provisions of KRS 121A.020(5), all contributions to slates of candidates made within the last 28 days immediately preceding a primary or general election shall be reported to the Registry of Election Finance within 24 hours of receipt. All other statutes contained in KRS Chapter 121A shall remain in effect for all slates of candidates, except that KRS 121A.080(6) shall not apply, and slated candidates shall be governed instead by KRS 121.180(10), and KRS 121A.030(4) shall not apply, and all slated candidates may receive contributions from permanent committees which, in the aggregate, shall not exceed 25 percent of the contributions received by the slate in any one election up to a maximum of \$300,000 in any one election.

24. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

a.	Board of Accountancy	2002-03	2003-04
		Restricted Funds	752,700
b.	Alcohol and Drug Counselors	2002-03	2003-04
		Restricted Funds	62,000
c.	Board of Architects	2002-03	2003-04
		Restricted Funds	272,000
d.	Board of Art Therapists	2002-03	2003-04
		Restricted Funds	11,300
e.	Kentucky Athletic Commission	2002-03	2003-04
		Restricted Funds	158,500
f.	Board of Auctioneers	2002-03	2003-04
		Restricted Funds	360,200
g.	Board of Barbering	2002-03	2003-04
		Restricted Funds	225,600
h.	Board of Chiropractic Examiners	2002-03	2003-04
		Restricted Funds	182,800
i.	Board of Dentistry	2002-03	2003-04
		Restricted Funds	474,400
j.	Board of Dietitians and Nutritionists		

ACTS OF THE GENERAL ASSEMBLY

		2002-03	2003-04
	Restricted Funds	67,900	71,500
k.	Board of Embalmers and Funeral Directors		
		2002-03	2003-04
	Restricted Funds	240,400	249,100
l.	Board of Engineers and Land Surveyors		
		2002-03	2003-04
	Restricted Funds	1,291,800	1,354,100
m.	Board of Fee-Based Pastoral Counselors		
		2002-03	2003-04
	Restricted Funds	6,000	6,000
n.	Board of Geologists		
		2002-03	2003-04
	Restricted Funds	133,000	135,000
o.	Board of Hairdressers and Cosmetologists		
		2002-03	2003-04
	Restricted Funds	998,900	705,600
p.	Board of Hearing Instrument Specialists		
		2002-03	2003-04
	Restricted Funds	50,700	52,700
q.	Board of Interpreters for Deaf and Hard of Hearing		
		2002-03	2003-04
	Restricted Funds	25,000	25,000
r.	Board of Landscape Architects		
		2002-03	2003-04
	Restricted Funds	55,300	57,800
s.	Board of Marriage and Family Therapists		
		2002-03	2003-04
	Restricted Funds	79,200	83,200
t.	Board of Medical Licensure		
		2002-03	2003-04
	Restricted Funds	1,992,500	2,099,900
u.	Board of Nursing		
		2002-03	2003-04
	Restricted Funds	4,695,300	4,268,900
Included in the above Restricted Funds appropriation is \$175,000 in each fiscal year for the Nursing Incentive Scholarship Program.			
v.	Nursing Home Administrators Licensure Board		
		2002-03	2003-04

	Restricted Funds	69,000	76,200
w.	Board of Occupational Therapy		
		2002-03	2003-04
	Restricted Funds	76,600	86,000
x.	Board of Ophthalmic Dispensers		
		2002-03	2003-04
	Restricted Funds	57,600	62,900
y.	Board of Optometric Examiners		
		2002-03	2003-04
	Restricted Funds	152,400	157,000
z.	Board of Pharmacy		
		2002-03	2003-04
	Restricted Funds	835,000	876,000
aa.	Board of Physical Therapy		
		2002-03	2003-04
	Restricted Funds	263,400	280,000
ab.	Board of Podiatry		
		2002-03	2003-04
	Restricted Funds	14,500	15,500
ac.	Board of Professional Counselors		
		2002-03	2003-04
	Restricted Funds	49,700	51,700
ad.	Board of Proprietary Education		
		2002-03	2003-04
	Restricted Funds	123,000	134,300
ae.	Board of Psychology		
		2002-03	2003-04
	Restricted Funds	169,600	176,100
af.	Real Estate Appraisers Board		
		2002-03	2003-04
	Restricted Funds	614,900	631,900
ag.	Real Estate Commission		
		2002-03	2003-04
	Restricted Funds	2,003,100	2,302,900

Included in the above Restricted Funds appropriation is \$966,700 in fiscal year 2002-2003 and \$1,224,000 in fiscal year 2003-2004 for Real Estate Education and Recovery.

ah.	Board of Respiratory Care		
		2002-03	2003-04

	Restricted Funds	182,700	188,600
ai.	Board of Social Workers		
		2002-03	2003-04
	Restricted Funds	141,300	145,300
aj.	Board of Speech Pathologists and Audiologists		
		2002-03	2003-04
	Restricted Funds	83,000	86,000
ak.	Board of Veterinary Examiners		
		2002-03	2003-04
	Restricted Funds	228,300	237,800

TOTAL - OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

		2002-03	2003-04
	Restricted Funds	17,199,600	17,198,900

25. EDUCATION PROFESSIONAL STANDARDS BOARD

		2002-03	2003-04
	General Fund	12,433,800	10,679,000
	Restricted Funds	1,378,500	829,600
	Federal Funds	3,020,300	4,379,200
	TOTAL	16,832,600	15,887,800

Notwithstanding KRS 161.134, \$800,000 in fiscal year 2002-2003 and \$800,000 in fiscal year 2003-2004 is provided for National Board of Teaching Standards Certification from the General Fund.

Notwithstanding KRS 161.028(1)(o) and (q), the above Restricted Funds appropriation may be used for the operations of the Board.

Notwithstanding KRS 161.027, no funds are provided in the above appropriations for the operational costs of the Kentucky Principal Internship Program in fiscal year 2003-2004.

Included in the above General Fund appropriation is \$2,000,000 in fiscal year 2002-2003 for the establishment of the Teacher Education Model Program.

Notwithstanding KRS 45.229, the above General Fund support appropriated for the Teacher Education Model Program shall not lapse in fiscal year 2002-2003, but be carried forward to fiscal year 2003-2004 for the purposes of providing program services in fiscal year 2003-2004.

26. BOARD OF EMERGENCY MEDICAL SERVICES

		2002-03	2003-04
	General Fund	2,504,300	2,504,300
	Restricted Funds	168,300	171,700
	Federal Fund	362,800	100,000
	TOTAL	3,035,400	2,776,000

27. GOVERNMENTAL SERVICES CENTER

		2002-03	2003-04
	Restricted Funds	1,462,000	1,516,000

28. EXECUTIVE BRANCH ETHICS COMMISSION

	2002-03	2003-04
General Fund	325,900	325,900
Restricted Funds	300	2,400
TOTAL	326,200	328,300

29. MISCELLANEOUS APPROPRIATIONS

a. Judgments

	2002-03	2003-04
General Fund	0	0

The above appropriation is for the payment of judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board and, where applicable, shall be subject to the provisions of KRS Chapter 45, and for the payment of medical malpractice judgments against the University of Kentucky and the University of Louisville in accordance with KRS 164.941 and 164.892. Notwithstanding KRS 45.229, any remaining appropriation in the Judgments account at the end of fiscal year 2001-2002 or fiscal year 2002-2003 shall not lapse but shall be carried forward into fiscal years 2002-2003 and 2003-2004, respectively.

b. Attorney General Expense

	2002-03	2003-04
General Fund	225,000	225,000

c. Board of Claims Awards

	2002-03	2003-04
General Fund	600,000	600,000

Funds are appropriated from the General Fund for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund. However, awards under \$2,000, in cases where the operating agency admits negligence, shall be paid from funds available for the operations of the agency.

d. Guardian Ad Litem

	2002-03	2003-04
General Fund	3,200,000	3,400,000

Included in the above appropriation is funding for fees to be paid to the guardian ad litem appointed by the court pursuant to KRS 311.732. The fee shall be fixed by the court and shall not exceed \$500.

e. Prior Year Claims

	2002-03	2003-04
General Fund	400,000	400,000

f. Unredeemed Checks Refunded

	2002-03	2003-04
General Fund	1,000,000	1,000,000

Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with KRS 41.370.

g. Involuntary Commitments ICF/MR

	2002-03	2003-04
General Fund	60,000	60,000

h. Frankfort in Lieu of Taxes

ACTS OF THE GENERAL ASSEMBLY

		2002-03	2003-04
	General Fund	195,000	195,000
i.	Frankfort Cemetery		
		2002-03	2003-04
	General Fund	2,500	2,500
j.	Police Officers and Firefighters--Life Insurance		
		2002-03	2003-04
	General Fund	250,000	250,000

Funds are appropriated for payment of benefits for state and local police officers and firefighters in accordance with KRS 61.315.

k.	Master Commissioners--Employers Retirement		
		2002-03	2003-04
	General Fund	200,000	200,000
l.	Master Commissioner--Social Security		
		2002-03	2003-04
	General Fund	313,000	343,000
m.	Workers' Compensation		
		2002-03	2003-04
	General Fund	502,000	532,000

Funds are appropriated for workers' compensation premiums for fee officers in counties over 70,000 in population.

n.	Medical Malpractice Liability Insurance Reimbursements		
		2002-03	2003-04
	General Fund	60,000	60,000
o.	Blanket Employee Bonds		
		2002-03	2003-04
	General Fund	100,000	100,000
p.	Necessary Government Expenses		
		2002-03	2003-04
	General Fund	5,629,000	0

Included in the above appropriation for fiscal year 2002-2003 is \$29,000 authorized for the Commonwealth's Attorneys budget unit, \$1,000,000 authorized for the ANOC-Unredeemed Checks budget unit, \$3,950,000 authorized for the Military Affairs budget unit, \$50,000 authorized for the Executive Branch Ethics Commission, and \$600,000 authorized for the Board of Claims.

TOTAL - MISCELLANEOUS APPROPRIATIONS

		2002-03	2003-04
	General Fund	12,736,500	7,367,500

Included in the above appropriations is \$0 in fiscal year 2002-2003 and \$0 in fiscal year 2003-2004 for refunding money paid into the State Treasury, which may later be determined not to be a lawful collection by the state. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and with the approval of the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

Funds required to pay the costs of items included within the Miscellaneous Appropriations category are appropriated, and any required expenditure over the above amounts is to be paid first from the General Fund Surplus Account (KRS 48.700) if available or from any available balance in either the Judgments budget unit appropriation or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

30. KENTUCKY RIVER AUTHORITY

Budget Units

	2002-03	2003-04
General Fund	379,000	379,000
Restricted Funds	3,266,000	3,698,000
TOTAL	3,645,000	4,077,000

TOTAL - GOVERNMENT OPERATIONS

	2002-03	2003-04
General Fund (Tobacco)	52,451,200	43,859,000
General Fund	247,099,700	250,558,800
Restricted Funds	164,676,500	161,020,000
Federal Funds	155,703,600	131,594,000
Road Fund	125,000	125,000
TOTAL	620,056,000	587,156,800

B. CABINET FOR ECONOMIC DEVELOPMENT

31. CABINET FOR ECONOMIC DEVELOPMENT

Budget Units

a. Office of the Secretary

	2002-03	2003-04
General Fund	1,392,700	7,862,300
Restricted Funds	3,093,200	4,140,800
TOTAL	4,485,900	12,003,100

Included in the above Restricted Funds appropriation is \$472,000 in fiscal year 2002-2003 for the East Kentucky Jobs Creation Corporation and \$467,000 in fiscal year 2002-2003 and \$467,000 in fiscal year 2003-2004 for the West Kentucky Jobs Creation Corporation. Also included in the above Restricted Funds appropriation is \$770,500 in fiscal year 2002-2003 and \$783,600 in fiscal year 2003-2004 for the Regional Development Office. Notwithstanding KRS 42.4592, the Restricted Funds appropriations for the East Kentucky Corporation, the West Kentucky Corporation, and the Regional Development Office shall be funded from the Local Government Economic Development Fund prior to any other statutory distribution from the Local Government Economic Development Fund.

Included in the above Restricted Funds appropriation is \$300,000 in fiscal year 2002-2003 and \$300,000 in fiscal year 2003-2004 for the Kentucky Technology Service Grant administered by the Kentucky Manufacturing Assistance Center.

Included in the above Restricted Funds appropriation is \$420,800 in fiscal year 2002-2003 and \$420,800 in fiscal year 2003-2004 for the Louisville Waterfront Development Corporation.

Included in the above Restricted Funds appropriation is \$2,144,900 in fiscal year 2002-2003 and \$2,169,400 in fiscal year 2003-2004 for the Office of the Commissioner for the New Economy, including up to \$1,300,000 in each year for Innovation and Commercialization Centers. Notwithstanding KRS 164.6019, 164.6021, 164.6027, 164.6029, 164.6035, and 164.6037, the unobligated balance of fiscal year 2001-2002 appropriations and a portion of the

appropriations, as necessary but not to exceed \$1,969,400 in fiscal year 2002-2003 and \$1,000,000 in fiscal year 2003-2004 from the Council on Postsecondary Education, Science and Technology Funding Program, shall be transferred to the Office of the Commissioner for the New Economy. The Office of State Budget Director shall certify the transfer. Included in the above General Fund appropriation for fiscal year 2003-2004 is \$1,482,000 for debt service.

Included in the above General Fund appropriation is \$5,000,000 in fiscal year 2003-2004 for the New Economy High-Tech Construction and High-Tech Investment Pools. The Commissioner of the Office of the New Economy shall determine the amounts to be apportioned between the High-Tech Investment and High-Tech Construction Pools.

b. Administration and Program Support

	2002-03	2003-04
General Fund	2,179,900	2,111,100
Restricted Funds	29,800	45,900
TOTAL	2,209,700	2,157,000

c. Business Development

	2002-03	2003-04
General Fund	2,517,900	2,475,500
Restricted Funds	248,800	290,600
TOTAL	2,766,700	2,766,100

d. Financial Incentives

	2002-03	2003-04
General Fund	3,343,800	8,500,800
Restricted Funds	2,182,700	2,227,300
TOTAL	5,526,500	10,728,100

Included in the above General Fund appropriation is \$5,275,000 in fiscal year 2003-2004 for debt service for new bonds. Included in this amount is \$1,400,000 for debt service for the Rupp Arena/Lexington Civic Center project identified in Part II, Capital Projects Budget.

Notwithstanding KRS 45.229, the General Fund appropriation for fiscal year 2001-2002 and for fiscal year 2002-2003 for the Bluegrass State Skills Corporation shall be continued and not lapse to the General Fund Surplus Account.

Notwithstanding KRS 154.12-207, the Secretary is directed to take such action as may be necessary to execute contractual agreements for designated skills training and education projects for which funds have been specifically appropriated.

No commitment for employee training shall be made beyond the ability of the Cabinet to fund the project within the appropriation for the current biennium.

Balances remaining in the Special Revenue Fund accounts after all appropriations authorized in this bill are funded shall lapse to the Deferred Maintenance Account at the end of each fiscal year.

The Bluegrass State Skills Corporation shall submit a quarterly financial report to the Governor's Office for Policy and Management, the Legislative Research Commission, and the Interim Joint Committee on Appropriations and Revenue.

Notwithstanding KRS 154.12-278 by which the Kentucky Economic Development Finance Authority (KEDFA) authorized a grant of up to \$1,300,000 in fiscal year 2001-2002 to the Kentucky Science and Technology Corporation, a maximum of \$900,000 of the authorized amount shall be conveyed for expenditure. The remaining funding shall be retained and shall be appropriated to the Office of the Commissioner for the New Economy to be used to fund Innovation and Commercialization grants.

e. Community Development

	2002-03	2003-04
General Fund	2,855,900	2,879,100
Restricted Funds	440,100	454,000
Federal Funds	157,100	155,400
TOTAL	3,453,100	3,488,500

TOTAL - CABINET FOR ECONOMIC DEVELOPMENT

	2002-03	2003-04
General Fund	12,290,200	23,828,800
Restricted Funds	5,994,600	7,158,600
Federal Funds	157,100	155,400
TOTAL	18,441,900	31,142,800

C. EDUCATION

32. EDUCATION

Budget Units

a. Support Education Excellence in Kentucky (SEEK) Program

	2002-03	2003-04
General Fund	2,295,592,100	2,372,391,000

Accumulated earnings for the Common School Fund shall be transferred in each fiscal year to the Support Education Excellence in Kentucky Program.

The above appropriations include \$1,800,114,900 in fiscal year 2002-2003 and \$1,882,389,800 in fiscal year 2003-2004 for the base SEEK Program as defined by KRS 157.360. Funds appropriated to the Support Education Excellence in Kentucky Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. Notwithstanding KRS 157.360(2)(c), included in the appropriation for base SEEK is \$202,216,300 in fiscal year 2002-2003 and \$212,106,200 in fiscal year 2003-2004 for pupil transportation.

Included in the above appropriation is \$136,184,400 in fiscal year 2002-2003 and \$136,088,100 in fiscal year 2003-2004 for the Tier I component as established by KRS 157.440.

Included in the above appropriation is \$14,700,000 in fiscal year 2002-2003 for one-time Support Education Excellence in Kentucky (SEEK) payments to local school districts. These funds shall be allotted in accordance with KRS 157.310 to 157.440 and shall be separate from and in addition to moneys appropriated for the base guarantee for the SEEK Program at the \$3,081 per pupil level in fiscal year 2002-2003. These additional moneys shall not become part of the continuing appropriation for base SEEK.

Included in the above appropriation is \$2,416,900 in fiscal year 2002-2003 and \$2,416,900 in fiscal year 2003-2004 for vocational transportation.

Included in the above appropriation is \$21,452,600 in fiscal year 2002-2003 and \$21,452,600 in fiscal year 2003-2004 to provide secondary vocational education in state-operated vocational schools.

Included in the above appropriation is \$58,759,400 in fiscal year 2002-2003 and \$56,253,600 in fiscal year 2003-2004 to provide facilities equalization funding pursuant to KRS 157.440 and 157.620.

Included in the above General Fund appropriation is \$3,000,000 in fiscal year 2003-2004 to provide facilities equalization funding for debt service, new facilities, and major renovations of existing facilities pursuant to KRS 157.440, 157.620, and 157.621(2) and (3) as provided for in Part IX, Special Provisions, 14.g., of this Act.

Included in the above appropriation is \$261,363,900 in fiscal year 2002-2003 and \$270,190,000 in fiscal year 2003-2004 to enable local school districts to provide the employer match for qualified employees as provided for by KRS 161.550.

Notwithstanding KRS 157.395, included in the above appropriation is \$600,000 in each fiscal year to assist local school districts in providing salary supplements for teachers attaining certification by the National Board of Professional Teaching Standards.

b. Executive Policy and Management

	2002-03	2003-04
General Fund	696,800	1,184,900

c. Operations and Support Services

	2002-03	2003-04
General Fund	11,341,800	10,532,300
Restricted Funds	2,187,900	2,264,400
Federal Funds	562,500	573,800
TOTAL	14,092,200	13,370,500

Included in the above General Fund appropriation is \$2,503,800 in fiscal year 2002-2003 and \$2,553,900 in fiscal year 2003-2004 to enable the Department of Education to provide the employer match for the teacher retirement contribution for qualified employees as provided by KRS 161.550.

No funds are provided in the above appropriations for the operational costs of the Division of Management Assistance Programs in fiscal year 2003-2004.

Included in the above General Fund appropriation in fiscal year 2003-2004 is \$143,000 to provide for debt service for Bond Funds totaling \$1,517,000 for capital projects relating to the Kentucky School for Deaf and the Kentucky School for the Blind as provided in Part II, Capital Projects Budget, in this Act.

d. Learning and Results Services

	2002-03	2003-04
General Fund	558,512,500	573,902,900
Restricted Funds	5,850,700	5,851,200
Federal Funds	491,060,800	497,995,000
TOTAL	1,055,424,000	1,077,749,100

Included in the above General Fund appropriation is \$15,000,000 in fiscal year 2002-2003 and \$18,693,600 in fiscal year 2003-2004 for the education technology escrow account.

Included in the above General Fund appropriation is \$10,800,000 in fiscal year 2002-2003 and \$10,800,000 in fiscal year 2003-2004 for reimbursement to local school districts for the education of state agency children as defined by KRS 158.135.

Included in the above General Fund appropriation is \$267,397,000 in fiscal year 2002-2003 and \$309,119,400 in fiscal year 2003-2004 to provide health insurance and life insurance coverage for employees of local school districts.

Included in the above General Fund appropriation is \$3,045,000 in fiscal year 2002-2003 for the school rewards escrow account. This amount is included in the sum of \$10,955,200 that is transferred to the General Fund in fiscal year 2002-2003 in Part V, Funds Transfer, of this Act.

Included in the above General Fund appropriation is \$5,421,100 in fiscal year 2002-2003 and \$5,659,500 in fiscal year 2003-2004 for the Kentucky School for the Blind, and \$9,139,800 in fiscal year 2002-2003 and \$9,559,300 in fiscal year 2003-2004 for the Kentucky School for the Deaf.

Notwithstanding KRS 156.017 and 156.095(4), no funds are provided in the above appropriations for the operational costs of Regional Service Centers in fiscal year 2003-2004. However, the Kentucky Department of Education shall provide the same types and levels of services to all local school districts that had been previously provided by the Regional Service Centers.

Included in the above General Fund appropriation is \$1,750,000 in fiscal year 2002-2003 and \$1,750,000 in fiscal year 2003-2004 for the Community Education Program; \$1,750,000 is established as the base level budget for the Community Education Program within the Kentucky Department of Education. Included in the \$1,750,000 appropriation in fiscal year 2002-2003 is \$1,700,000 for community education grants to support community education director salaries and \$50,000 to support community education director training and the state advisory council. Included in the \$1,750,000 appropriation in fiscal year 2003-2004 is \$1,700,000 for community education grants to support community education director salaries and \$50,000 to support community education director training and the state advisory council.

TOTAL - EDUCATION

	2002-03	2003-04
General Fund	2,866,143,200	2,958,011,100
Restricted Funds	8,038,600	8,115,600
Federal Funds	491,623,300	498,568,800
TOTAL	3,365,805,100	3,464,695,500

D. EDUCATION, ARTS, AND HUMANITIES CABINET

Budget Units

33. OFFICE OF THE SECRETARY

	2002-03	2003-04
General Fund	3,351,300	3,151,300
Restricted Funds	448,900	236,700
TOTAL	3,800,200	3,388,000

Included in the above General Fund appropriation is \$1,470,900 in each fiscal year for the Governor's Scholars Program.

Included in the above General Fund appropriation is \$405,000 in fiscal year 2002-2003 and \$405,000 in fiscal year 2003-2004 for the Governor's School for the Arts.

Included in the above Restricted Funds appropriation is \$400,000 in fiscal year 2002-2003 and \$200,000 in fiscal year 2003-2004 for the Kentucky Pride Program.

Up to \$30,000 in General Fund support each year is available to be transferred to the Environmental Education Council for additional support.

Notwithstanding KRS 48.605, the Secretary of the Education, Arts, and Humanities Cabinet is authorized to revise allotments within appropriations of the Office of the Secretary for the purpose of providing maximum public services.

34. KENTUCKY ARTS COUNCIL

	2002-03	2003-04
General Fund	4,523,800	4,523,800
Restricted Funds	782,800	612,500
Federal Funds	692,800	621,100
TOTAL	5,999,400	5,757,400

35. TEACHERS' RETIREMENT SYSTEM

	2002-03	2003-04
General Fund	90,113,200	97,489,000
Restricted Funds	7,330,100	7,571,900

TOTAL	97,443,300	105,060,900
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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.

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. 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 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 2002-2003 or fiscal year 2003-2004 for the cost of administration.

Included in the above General Fund appropriation is \$3,668,400 in fiscal year 2002-2003 and \$7,636,700 in fiscal year 2003-2004 to provide the cost of amortizing the requirements of KRS 161.155 (sick leave) for members retiring during the 2002-2004 biennium.

Included in the above General Fund appropriation is \$694,800 in fiscal year 2002-2003 and \$1,451,800 in fiscal year 2003-2004 to increase minimum value payments for members qualifying under provisions of KRS 161.620(3).

Included in the above General Fund appropriation is \$1,179,900 in fiscal year 2003-2004 to make up for an underappropriation during fiscal year 2000-2001 under the provisions of KRS 161.550.

Included in the above General Fund appropriation is \$4,406,000 in fiscal year 2002-2003 and \$9,213,400 in fiscal year 2003-2004 to provide, when combined with the annual one and one-half percent 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 nine-tenths percent in fiscal year 2002-2003 and an additional three percent in fiscal year 2003-2004.

Given enactment of 2002 Ky. Acts ch. 275, the amount of \$1,652,000 from the above General Fund appropriation shall lapse to the credit of the General Fund at the end of fiscal year 2002-2003.

36. SCHOOL FACILITIES CONSTRUCTION COMMISSION

	2002-03	2003-04
General Fund	75,821,400	84,928,600
Restricted Funds	0	2,290,000
TOTAL	75,821,400	87,218,600

Included in the above General Fund appropriation is \$75,553,100 in fiscal year 2002-2003 and \$77,476,500 in fiscal year 2003-2004 for debt service for bonds previously issued.

Included in the above General Fund appropriation is \$2,092,500 in fiscal year 2003-2004 for first year debt service for bonds authorized by the 2000 Regular Session of the General Assembly.

Included in the above General Fund appropriation is \$96,200 in fiscal year 2003-2004 for debt service for \$4,600,000 in new bonding authority to be provided to public school district 165 in fiscal year 2002-2003.

Included in the above General Fund appropriation is \$2,313,100 in fiscal year 2003-2004 for first-year debt service for \$55,284,000 in new bonding authority as provided in Part II, Capital Projects Budget, to support the Urgent Need School Trust Fund as established in Part IX, Special Provisions, of this Act.

Notwithstanding KRS 157.611 to 157.640, 157.650, 157.655, 157.660, or 157.665, the School Facilities Construction Commission is authorized to make an additional \$100,000,000 in offers of assistance during the 2002-2004 biennium in anticipation of debt service availability during the 2004-2006 biennium. Included in the above General Fund appropriation is \$2,700,000 in fiscal year 2003-2004 for debt service on \$32,265,000 of these bonds. No additional bonded indebtedness based on the above amount is to be incurred during the 2002-2004 biennium.

Included in the above Restricted Funds appropriation is \$2,290,000 in fiscal year 2003-2004 for first-year debt service provided from Coal Severance Tax Receipts for \$54,730,900 in new bonding authority as provided in Part II,

Capital Projects Budget, to support “Category 5” school buildings (poorest condition) in accordance with the Kentucky Department of Education’s Building Assessment document of March 4, 2003.

37. DEAF AND HARD OF HEARING

	2002-03	2003-04
General Fund	885,500	885,500
Restricted Funds	281,500	260,000
TOTAL	1,167,000	1,145,500

38. KENTUCKY HERITAGE COUNCIL

	2002-03	2003-04
General Fund	921,100	921,100
Restricted Funds	785,700	227,500
Federal Funds	766,100	766,100
TOTAL	2,472,900	1,914,700

39. KENTUCKY EDUCATIONAL TELEVISION

	2002-03	2003-04
General Fund	14,548,100	14,548,100
Restricted Funds	1,106,400	1,075,700
Federal Funds	700,000	700,000
TOTAL	16,354,500	16,323,800

40. KENTUCKY HISTORICAL SOCIETY

	2002-03	2003-04
General Fund	5,985,200	6,185,200
Restricted Funds	627,200	571,400
Federal Funds	486,800	381,600
TOTAL	7,099,200	7,138,200

Included in the above General Fund appropriation is \$200,000 in fiscal year 2003-2004 for support of the Military History Museum.

41. LIBRARIES AND ARCHIVES

a. General Operations

	2002-03	2003-04
General Fund	7,257,400	7,257,400
Restricted Funds	1,795,200	1,830,800
Federal Funds	1,807,600	1,836,800
TOTAL	10,860,200	10,925,000

b. Direct Local Aid

	2002-03	2003-04
General Fund	5,966,700	6,380,200
Restricted Funds	9,000	9,000

Federal Funds	424,000	424,000
TOTAL	6,399,700	6,813,200

Notwithstanding KRS 171.201, included in the above General Fund appropriation is \$3,669,500 in each fiscal year to award per capita grants at the rate of \$0.73.

Included in the above General Fund appropriation is \$400,000 in fiscal year 2003-2004 for design, site acquisition, and site preparation for construction of a new Jackson County Library.

TOTAL - LIBRARIES AND ARCHIVES

	2002-03	2003-04
General Fund	13,224,100	13,637,600
Restricted Funds	1,804,200	1,839,800
Federal Funds	2,231,600	2,260,800
TOTAL	17,259,900	17,738,200

42. KENTUCKY CENTER FOR THE ARTS

	2002-03	2003-04
General Fund	603,700	603,700

43. ENVIRONMENTAL EDUCATION COUNCIL

	2002-03	2003-04
Restricted Funds	167,000	150,000

TOTAL - EDUCATION, ARTS, AND HUMANITIES CABINET

	2002-03	2003-04
General Fund	209,977,400	226,873,900
Restricted Funds	13,333,800	14,835,500
Federal Funds	4,877,300	4,729,600
TOTAL	228,188,500	246,439,000

E. CABINET FOR FAMILIES AND CHILDREN

Budget Units

44. COMMUNITY BASED SERVICES

	2002-03	2003-04
General Fund (Tobacco)	7,262,800	3,581,300
General Fund	280,666,700	284,364,400
Restricted Funds	104,134,700	123,639,600
Federal Funds	489,678,800	476,832,800
TOTAL	881,743,000	888,418,100

The Department for Community Based Services shall reimburse citizen members of the Public Assistance Appeals Board an amount not to exceed \$75 per day plus travel expenses.

45. ADMINISTRATION SERVICES

	2002-03	2003-04
General Fund	27,660,400	29,162,700
Restricted Funds	4,390,100	4,501,800

Federal Funds	37,311,900	38,458,800
TOTAL	69,362,400	72,123,300

46. DISABILITY DETERMINATIONS

	2002-03	2003-04
Restricted Funds	62,700	65,800
Federal Funds	40,129,800	42,376,900
TOTAL	40,192,500	42,442,700

TOTAL - CABINET FOR FAMILIES AND CHILDREN

	2002-03	2003-04
General Fund (Tobacco)	7,262,800	3,581,300
General Fund	308,327,100	313,527,100
Restricted Funds	108,587,500	128,207,200
Federal Funds	567,120,500	557,668,500
TOTAL	991,297,900	1,002,984,100

F. FINANCE AND ADMINISTRATION CABINET

47. FINANCE AND ADMINISTRATION CABINET

Budget Units

a. General Administration

	2002-03	2003-04
General Fund	5,832,300	8,632,300
Restricted Funds	2,737,000	2,870,000
TOTAL	8,569,300	11,502,300

Included in the above General Fund appropriation is \$200,000 in fiscal year 2002-2003 and \$3,000,000 in fiscal year 2003-2004 for the Affordable Housing Trust Fund~~[- which shall be matched equally from the Kentucky Housing Corporation Housing Assistance Fund].~~

Included in the above General Fund appropriation is \$220,000 in fiscal year 2003-2004 for Gubernatorial transition costs.

b. Office of the Controller

	2002-03	2003-04
General Fund	5,939,400	5,939,400
Restricted Funds	396,000	414,000
Federal Funds	4,000,000	4,000,000
TOTAL	10,335,400	10,353,400

c. Debt Service

	2002-03	2003-04
General Fund (Tobacco)	6,112,000	6,116,000
General Fund	245,498,000	248,758,000
Road Fund	3,668,000	3,664,000
TOTAL	255,278,000	258,538,000

Included in the above General Fund appropriation is \$986,000 in fiscal year 2003-2004 for debt service for Coal Severance Tax Projects funded with Bond Funds.

d. Administration

	2002-03	2003-04
General Fund	3,542,400	3,513,000
Restricted Funds	9,180,800	9,567,000
Road Fund	283,000	283,000
TOTAL	13,006,200	13,363,000

e. Facilities Management

	2002-03	2003-04
General Fund	7,875,800	7,589,500
Restricted Funds	25,116,000	25,821,000
TOTAL	32,991,800	33,410,500

Notwithstanding KRS 42.037, effective December 8, 2003, the Secretary of the Finance and Administration Cabinet shall expend no state funds for a residence for the Lieutenant Governor, except for expenses necessary to maintain property owned by the Commonwealth. Notwithstanding KRS 42.037, 30 days after the effective date of this Act, the Secretary of the Finance and Administration Cabinet shall expend no state funds for staff or services for the residence of the Lieutenant Governor, other than expenses necessary to maintain property owned by the Commonwealth.

f. County Costs

	2002-03	2003-04
General Fund	22,631,000	21,926,600
Restricted Funds	1,425,000	1,425,000
TOTAL	24,056,000	23,351,600

Included in the above General Fund appropriation is \$5,431,000 in fiscal year 2002-2003 for base court revenue. Notwithstanding KRS 24A.190 to 24A.193, included in the above General Fund appropriation is \$2,715,500 in fiscal year 2003-2004 for base court revenue to provide payments to cities and counties that had a local court system as of June 30, 1976. The payments are based on 50 percent of the average net court revenue earned by the city during 1973-1974, 1974-1975, and 1975-1976 fiscal years. For the eligible local governments who receive base court revenue under KRS 24A.191 to 24A.193, the fee provided in Section 2 of 2003 HB 162/SCS is intended to replace that revenue.

Funds required to pay county costs other than base court revenue funded by the General Fund are appropriated and additional funds may be allotted from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) by the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

g. County Fees

	2002-03	2003-04
Restricted Funds	85,145,600	80,760,800

TOTAL - FINANCE AND ADMINISTRATION CABINET

	2002-03	2003-04
General Fund (Tobacco)	6,112,000	6,116,000
General Fund	291,318,900	296,358,800
Restricted Funds	124,000,400	120,857,800
Federal Funds	4,000,000	4,000,000

Road Fund	3,951,000	3,947,000
TOTAL	429,382,300	431,279,600

G. CABINET FOR HEALTH SERVICES

Budget Units

48. MEDICAID SERVICES

a. Administration

	2002-03	2003-04
General Fund	17,848,000	18,028,200
Restricted Funds	20,624,400	20,806,000
Federal Funds	44,009,800	44,741,900
TOTAL	82,482,200	83,576,100

If any portion of the General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, the amount may be used for Medicaid Benefits, in accordance with statutes governing the functions and activities of the Department for Medicaid Services. In no instance shall these excess funds be used without prior written approval of the State Budget Director to:

- (1) Establish a new program;
- (2) Expand the services of an existing program; or
- (3) Increase rates or payment levels in an existing program.

Any transfer authorized under this section shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director.

b. Benefits

	2002-03	2003-04
General Fund	752,373,700	761,755,500
Restricted Funds	200,011,300	201,949,400
Federal Funds	2,245,464,700	2,270,733,300
TOTAL	3,197,849,700	3,234,438,200

These funds are to be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Medicaid Services.

Included in the above appropriation is \$1,200,000 in General Fund support and \$4,800,000 Federal Funds in each fiscal year to support the Breast and Cervical Cancer Treatment Program.

Included in the above appropriation is \$1,970,300 in General Fund support and \$4,575,500 in Federal Funds in fiscal year 2002-2003 to support 250 additional Supports for Community Living slots and \$6,690,100 in General Fund support, \$3,800,800 in Restricted Funds, and \$24,351,100 in Federal Funds in fiscal year 2003-2004 to support 500 additional Supports for Community Living slots.

Notwithstanding KRS 45.229, any General Fund appropriation unexpended in fiscal year 2002-2003 shall not lapse, but shall be carried forward into the next fiscal year.

49. PUBLIC HEALTH

	2002-03	2003-04
General Fund (Tobacco)	21,738,800	20,882,800
General Fund	55,693,300	56,081,700
Restricted Funds	65,849,000	65,914,100

Federal Funds	141,120,500	127,620,500
TOTAL	284,401,600	270,499,100

Included in the above appropriation is \$50,000 in General Fund support in each fiscal year to support hospital-based hospice services in Louisville, Kentucky.

Notwithstanding KRS 211.090 or 211.160, the Secretary shall promulgate such administrative regulations as may be required to prescribe such user fees as are necessary to support the Restricted Funds appropriations above.

50. MENTAL HEALTH/MENTAL RETARDATION

	2002-03	2003-04
General Fund (Tobacco)	1,000,000	1,000,000
General Fund	168,530,000	172,521,900
Restricted Funds	190,820,600	206,415,200
Federal Funds	41,724,800	41,355,900
TOTAL	402,075,400	421,293,000

Included in the above General Fund appropriation is \$275,000 in fiscal year 2002-2003 and \$275,000 in fiscal year 2003-2004 to implement a training program relating to mental health consultation and education to jails, as identified in Part IX, Special Provisions, of this Act (Part IX, Special Provisions, 27. Department for Mental Health/Mental Retardation, e. Mental Health Consultation and Education to Jails). No funds shall be disbursed by the Cabinet for Health Services until all plans for training programs have been approved by the Kentucky Commission on Services and Supports to Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses.

Also included in the above General Fund appropriation is \$635,000 in fiscal year 2003-2004 for debt service to support new bonds.

51. CHILDREN WITH SPECIAL HEALTH CARE NEEDS

	2002-03	2003-04
General Fund (Tobacco)	1,600,000	1,600,000
General Fund	16,709,500	16,709,500
Restricted Funds	22,089,000	23,262,900
Federal Funds	10,053,700	9,822,800
TOTAL	50,452,200	51,395,200

52. CERTIFICATE OF NEED

	2002-03	2003-04
General Fund	131,500	134,100
Restricted Funds	234,200	251,100
TOTAL	365,700	385,200

The Secretary shall be authorized to promulgate such administrative regulations as may be required to prescribe user fee amounts which are reflected in the Restricted Funds appropriations above.

53. AGING SERVICES

	2002-03	2003-04
General Fund	26,421,800	26,821,800
Restricted Funds	760,400	761,600
Federal Funds	18,885,300	18,885,300
TOTAL	46,067,500	46,468,700

54. ADMINISTRATIVE SUPPORT

	2002-03	2003-04
General Fund	9,866,000	9,875,000
Restricted Funds	8,154,000	8,806,700
Federal Funds	12,729,200	13,254,500
TOTAL	30,749,200	31,936,200

Notwithstanding KRS 211.090 or 211.160, the Secretary shall promulgate such administrative regulations as may be required to prescribe such user fees as are necessary to support the Restricted Funds appropriations above.

TOTAL - CABINET FOR HEALTH SERVICES

	2002-03	2003-04
General Fund (Tobacco)	24,338,800	23,482,800
General Fund	1,047,573,800	1,061,927,700
Restricted Funds	508,542,900	528,167,000
Federal Funds	2,513,988,000	2,526,414,200
TOTAL	4,094,443,500	4,139,991,700

H. JUSTICE CABINET

55. JUSTICE OPERATIONS

Budget Units

a. Justice Administration

	2002-03	2003-04
General Fund	8,017,000	7,826,000
Restricted Funds	1,908,100	2,164,200
Federal Funds	13,433,500	13,384,700
TOTAL	23,358,600	23,374,900

Included in the above General Fund appropriation is \$1,316,000 in fiscal year 2002-2003 and \$1,350,000 in fiscal year 2003-2004 to provide free civil legal services for indigents.

Included in the above General Fund appropriation is \$1,096,700 in fiscal year 2002-2003 and \$1,152,200 in fiscal year 2003-2004 for the operation of the State Parole Board.

Included in the above General Fund appropriation is \$70,000 in fiscal year 2002-2003 for a grant to continue the Urban League of Lexington-Fayette County Construction Training Program.

Included within the above Restricted Funds appropriation is \$375,600 in fiscal year 2002-2003 and \$363,700 in fiscal year 2003-2004 to support the Criminal Justice Council. Notwithstanding KRS 15.440, 15.460, and 15.470, these Restricted Funds shall come from the Kentucky Law Enforcement Foundation Program Fund (KLEFPF).

b. State Police

	2002-03	2003-04
General Fund	78,074,900	82,074,900
Restricted Funds	7,870,800	7,621,200
Federal Funds	9,772,600	10,261,300
Road Fund	35,000,000	35,000,000
TOTAL	130,718,300	134,957,400

There is appropriated from the General Fund to the Department of State Police, subject to the conditions and procedures provided in this Act, funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty when an emergency situation has been declared to exist by the Governor. Funding is authorized to be provided from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

Included in the above General Fund appropriation is \$1,500,000 in fiscal year 2003-2004 to support salary enhancements in the State Police as defined in Part IX, Special Provisions, of this Act.

c. Criminal Justice Training

	2002-03	2003-04
Restricted Funds	39,077,100	37,941,400
Federal Funds	2,700,000	2,700,000
TOTAL	41,777,100	40,641,400

Included in the above Restricted Funds appropriation is \$22,167,300 in fiscal year 2002-2003 and \$22,915,000 in fiscal year 2003-2004 for training incentive payments in accordance with KRS 15.430 and 15.440.

Notwithstanding KRS 15.460(1), included in the above Restricted Funds appropriation is \$3,100 in fiscal year 2002-2003 and \$3,100 in fiscal year 2003-2004 for training incentive payments for each participant.

d. Juvenile Justice

	2002-03	2003-04
General Fund	82,611,600	83,790,100
Restricted Funds	14,015,000	15,691,600
Federal Funds	17,300,000	17,250,000
TOTAL	113,926,600	116,731,700

Included in the above General Fund appropriation is \$4,940,000 in fiscal year 2002-2003 and \$3,735,500 in fiscal year 2003-2004 to support detention subsidies to counties of \$94 per day per juvenile each fiscal year and to support the provisions included in Part IX, Special Provisions, Juvenile Justice.

Included in the above General Fund appropriation is \$350,000 in fiscal year 2002-2003 and \$350,000 in fiscal year 2003-2004 for the operation of the Gateway Juvenile Diversion Center.

Included in the above General Fund appropriation is \$300,000 in fiscal year 2002-2003 and \$300,000 in fiscal year 2003-2004 for the operation of the Mary Kendall Homes.

TOTAL - JUSTICE OPERATIONS

	2002-03	2003-04
General Fund	168,703,500	173,691,000
Restricted Funds	62,871,000	63,418,400
Road Fund	35,000,000	35,000,000
Federal Funds	43,206,100	43,596,000
TOTAL	309,780,600	315,705,400

56. CORRECTIONS

Budget Units

a. Corrections Management

	2002-03	2003-04
General Fund	15,222,900	16,331,800
Restricted Funds	15,799,700	15,583,900

Federal Funds	1,743,100	800,000
TOTAL	32,765,700	32,715,700

Included in the above General Fund appropriation is \$508,000 in fiscal year 2003-2004 to provide for debt service payments to support new bonds.

b. Community Services and Local Facilities

	2002-03	2003-04
General Fund	67,374,000	81,400,400
Restricted Funds	15,623,400	629,900
Federal Funds	51,000	0
TOTAL	83,048,400	82,030,300

Notwithstanding KRS 441.605 to 441.695 for fiscal year 2002-2003, funds in the amount of \$15,000,000 shall be expended from the Kentucky Local Correctional Facilities Construction Authority for local correctional facility and operational support consistent with contractual covenants in accordance with bond indentures of the Authority.

In accordance with KRS 196.076(1) to (8), funding is provided for the Probation and Parole Salary Improvement Program.

Included in the above General Fund appropriation is \$46,512,900 in fiscal year 2002-2003 and \$46,354,800 in fiscal year 2003-2004 to support payments to county jails for state inmates.

c. Adult Correctional Institutions

	2002-03	2003-04
General Fund	189,290,800	197,583,900
Restricted Funds	6,526,100	6,588,500
Federal Funds	328,700	215,200
TOTAL	196,145,600	204,387,600

d. Local Jail Support

	2002-03	2003-04
General Fund	15,276,100	15,276,100

Included in the General Fund appropriation is \$931,100 in fiscal year 2002-2003 and \$931,100 in fiscal year 2003-2004 for medical care contracts to be distributed, upon approval of the Department of Corrections, to counties by the formula codified in KRS 441.206; \$400,000 in fiscal year 2002-2003 and \$400,000 in fiscal year 2003-2004 is provided, on a partial reimbursement basis, for medical claims in excess of the statutory threshold pursuant to KRS 441.045. The funding support for medical contracts and catastrophic medical expenses for indigents shall be maintained in discrete accounts. Any medical claim which exceeds the statutory threshold may be reimbursed for that amount in excess of the statutory threshold. In no event shall this apply to expenses of an elective, as opposed to emergency, basis, and expenses shall be paid according to the Kentucky Medical Assistance Schedule.

TOTAL - CORRECTIONS

	2002-03	2003-04
General Fund	287,163,800	310,592,200
Restricted Funds	37,949,200	22,802,300
Federal Funds	2,122,800	1,015,200
TOTAL	327,235,800	334,409,700

TOTAL - JUSTICE CABINET

	2002-03	2003-04
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ACTS OF THE GENERAL ASSEMBLY

General Fund	455,867,300	484,283,200
Restricted Funds	100,820,200	86,220,700
Federal Funds	45,328,900	44,611,200
Road Fund	35,000,000	35,000,000
TOTAL	637,016,400	650,115,100

I. LABOR
LABOR CABINET

57. Budget Units

a. General Administration and Support

	2002-03	2003-04
General Fund	404,200	422,000
Restricted Funds	5,652,600	5,897,300
TOTAL	6,056,800	6,319,300

Funds lapsed in Part V include no employer benefit premiums or liability payments and are Restricted Funds used for General Administration and Support operations.

b. Workplace Standards

	2002-03	2003-04
General Fund	2,031,100	2,013,300
Restricted Funds	124,275,500	124,691,000
Federal Funds	3,280,500	3,280,500
TOTAL	129,587,100	129,984,800

c. Workers' Claims

	2002-03	2003-04
Restricted Funds	16,397,700	17,093,300

d. Kentucky Occupational Safety and Health Review Commission

	2002-03	2003-04
Restricted Funds	476,800	479,300

TOTAL - LABOR CABINET

	2002-03	2003-04
General Fund	2,435,300	2,435,300
Restricted Funds	146,802,600	148,160,900
Federal Funds	3,280,500	3,280,500
TOTAL	152,518,400	153,876,700

Budget Unit

58. KENTUCKY WORKERS' COMPENSATION FUNDING COMMISSION

	2002-03	2003-04
Restricted Funds	151,812,000	153,419,000

Notwithstanding KRS 342.122, the Kentucky Workers' Compensation Funding Commission is authorized to finance a portion of the Mines and Minerals budget through Special Fund assessments. Funds in the amount of

\$850,000 in fiscal year 2002-2003 and \$850,000 in fiscal year 2003-2004 shall be transferred to the Department of Mines and Minerals.

Notwithstanding KRS 342.122(1)(c), no General Fund appropriation is provided to the Workers' Compensation Funding Commission in fiscal year 2002-2003 and fiscal year 2003-2004.

Notwithstanding KRS 342.122(1)(b), the workers' compensation assessment rate shall remain at 11.5 percent for the biennium.

Funds lapsed in Part V include no employer benefit premiums or liability payments and are the recapture of fiscal year 2001-2002 General Fund transfers to the Benefit Reserve Fund.

TOTAL - LABOR

	2002-03	2003-04
General Fund	2,435,300	2,435,300
Restricted Funds	298,614,600	301,579,900
Federal Funds	3,280,500	3,280,500
TOTAL	304,330,400	307,295,700

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

59. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Budget Units

a. General Administration and Support

	2002-03	2003-04
General Fund	9,445,900	9,505,900
Restricted Funds	331,900	277,300
Federal Funds	1,585,200	1,596,300
TOTAL	11,363,000	11,379,500

b. Environmental Protection

	2002-03	2003-04
General Fund	22,886,100	22,924,500
Restricted Funds	27,442,300	34,481,700
Federal Funds	19,457,000	19,661,900
TOTAL	69,785,400	77,068,100

Notwithstanding KRS 224.43-320, no funds are provided in the above appropriations for the assignment of full-time inspectors to each municipal solid waste landfill operating in the Commonwealth.

Included in the above General Fund appropriation is \$96,000 in fiscal year 2003-2004 for debt service to support bonds for the state-owned dam repair project.

Included in the above Restricted Funds appropriation is \$7,400,000 in fiscal year 2002-2003 and \$12,132,000 in fiscal year 2003-2004 for the Kentucky Pride Program.

c. Natural Resources

	2002-03	2003-04
General Fund (Tobacco)	9,000,000	9,000,000
General Fund	12,930,400	12,961,300
Restricted Funds	4,583,700	3,809,900

Federal Funds	6,283,300	4,914,700
TOTAL	32,797,400	30,685,900

Not less than \$240,000 of the General Fund appropriation for each fiscal year shall be set aside for emergency forest fire suppression. There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures provided in this Act, which are required as a result of emergency fire suppression activities in excess of the \$240,000 amount. Fire suppression costs in excess of \$240,000 annually shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

d. Surface Mining Reclamation and Enforcement

	2002-03	2003-04
General Fund	10,051,400	10,831,400
Restricted Funds	6,157,800	6,484,100
Federal Funds	17,243,300	17,390,000
TOTAL	33,452,500	34,705,500

Included in the General Fund appropriation is \$675,000 in each fiscal year for the return of permit and acreage fees under KRS 350.139; any required expenditure for this purpose in excess of this amount in either fiscal year is appropriated to the department.

e. Abandoned Mine Land Reclamation Projects

	2002-03	2003-04
Federal Funds	22,000,000	22,000,000

The above appropriations represent estimates of the funds to be received and expended for this program. If additional funds become available, the funds are appropriated subject to the conditions and procedures provided in this Act.

TOTAL - NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET

	2002-03	2003-04
General Fund (Tobacco)	9,000,000	9,000,000
General Fund	55,313,800	56,223,100
Restricted Funds	38,515,700	45,053,000
Federal Funds	66,568,800	65,562,900
TOTAL	169,398,300	175,839,000

60. ENVIRONMENTAL QUALITY COMMISSION

	2002-03	2003-04
General Fund	253,700	0
Restricted Funds	2,000	0
TOTAL	255,700	0

61. KENTUCKY NATURE PRESERVES COMMISSION

	2002-03	2003-04
General Fund	980,900	1,053,100
Restricted Funds	314,700	298,700
Federal Funds	25,000	25,000
TOTAL	1,320,600	1,376,800

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

	2002-03	2003-04
General Fund (Tobacco)	9,000,000	9,000,000
General Fund	56,548,400	57,276,200
Restricted Funds	38,832,400	45,351,700
Federal Funds	66,593,800	65,587,900
TOTAL	170,974,600	177,215,800

K. PERSONNEL CABINET

62. PERSONNEL CABINET

Budget Units

a. General Operations

	2002-03	2003-04
General Fund	1,507,400	3,257,400
Restricted Funds	14,972,000	14,223,200
TOTAL	16,479,400	17,480,600

Notwithstanding KRS 18A.015(2), (3), and (4), the Personnel Cabinet shall collect a benefits assessment per month per employee eligible for health insurance coverage in the state group as contained in Appendix B of the budget instructions promulgated by the Legislative Research Commission and communicated to agencies by the Office of State Budget Director for duly authorized use by the Personnel Cabinet in administering its statutory and administrative responsibilities, including but not limited to administration of the Commonwealth's health insurance program.

b. Public Employees Deferred Compensation Authority

	2002-03	2003-04
Restricted Funds	5,183,300	5,622,100

c. Workers' Compensation Benefits and Reserve

	2002-03	2003-04
Restricted Funds	17,269,200	18,138,200

The above appropriations represent estimates of the funds necessary to operate this program. If additional funds are required to adequately maintain this program, the necessary Restricted Funds are appropriated, subject to the conditions and procedures provided in this Act.

d. State Salary Compensation Fund

	2002-03	2003-04
General Fund	0	11,490,000

The above General Fund appropriation in fiscal year 2003-2004 is provided to fund a cost-of-living adjustment for state employees as provided in Part IV of this Act.

TOTAL - PERSONNEL CABINET

	2002-03	2003-04
General Fund	1,507,400	14,747,400
Restricted Funds	37,424,500	37,983,500
TOTAL	38,931,900	52,730,900

L. POSTSECONDARY EDUCATION

Budget Units

63. COUNCIL ON POSTSECONDARY EDUCATION

	2002-03	2003-04
General Fund (Tobacco)	6,280,000	5,455,000
General Fund	99,177,400	114,229,400
Restricted Funds	14,536,800	4,707,700
Federal Funds	4,260,000	3,161,200
TOTAL	124,254,200	127,553,300

Included in the above General Fund appropriation is \$80,270,900 in fiscal year 2002-2003 and \$95,135,600 in fiscal year 2003-2004 for the Strategic Investment and Incentive Funding Program. The following trust funds and funding programs make up the Strategic Investment and Incentive Funding Program for fiscal year 2002-2003 and for fiscal year 2003-2004. Included in the above General Fund appropriation is \$9,871,000 in fiscal year 2003-2004 for the Research Challenge Trust Fund. Included in the above General Fund appropriation is \$1,975,000 in fiscal year 2003-2004 for the Regional University Excellence Trust Fund. Included in the above General Fund appropriation is \$1,300,000 in fiscal year 2002-2003 and \$500,000 in fiscal year 2003-2004 for the Technology Initiative Trust Fund. Included in the above General Fund appropriation is \$60,431,300 in fiscal year 2002-2003 and \$63,000,000 in fiscal year 2003-2004 for the Student Financial Aid and Advancement Trust Fund. Included in the above Restricted Funds appropriation is \$750,000 in fiscal year 2002-2003 for the Student Financial Aid and Advancement Trust Fund. Included in the above General Fund appropriation is \$11,768,000 in fiscal year 2002-2003 and \$11,018,000 in fiscal year 2003-2004 for the Adult Education and Literacy Funding Program. Included in the above General Fund appropriation is \$6,771,600 in fiscal year 2002-2003 and \$8,771,600 in fiscal year 2003-2004 for the Science and Technology Funding Program. Included in the above Restricted Funds appropriation is \$4,000,000 in fiscal year 2002-2003 and \$2,000,000 in fiscal year 2003-2004 for the Science and Technology Funding Program.

Included in the above General Fund appropriation for the Research Challenge Trust Fund is \$9,871,000 in fiscal year 2003-2004 for debt service to support the Research Challenge Trust Fund-Endowment Match capital project appropriation authorized in Part II, Capital Projects Budget, in this Act.

Included in the above General Fund appropriation for the Regional University Excellence Trust Fund is \$1,975,000 in fiscal year 2003-2004 for debt service to support the Regional University Excellence Trust Fund-Endowment Match capital project appropriation authorized in Part II, Capital Projects Budget, in this Act.

Included in the above General Fund appropriation for the mathematics testing program is \$100,000 each fiscal year.

Included in the above General Fund appropriation for the P-16 program is \$100,000 each fiscal year.

Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2002-2003 to the Adult Education and Literacy Funding Program shall not lapse.

Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2002-2003 to the Science and Technology Funding Program shall not lapse.

64. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

	2002-03	2003-04
General Fund (Tobacco)	750,000	750,000
General Fund	45,860,000	71,828,300
Restricted Funds	86,352,500	97,352,600
Federal Funds	868,700	890,000
TOTAL	133,831,200	170,820,900

Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is \$28,885,800 for the College Access Program in fiscal year 2002-2003 and \$42,504,400 in fiscal year 2003-2004.

Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is \$12,288,400 for the Kentucky Tuition Grant Program in fiscal year 2002-2003 and \$23,216,200 in fiscal year 2003-2004.

Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation for the Teacher Scholarship Program is \$976,600 in fiscal year 2002-2003 and \$2,279,400 in fiscal year 2003-2004.

Included in the above Restricted Funds appropriation is \$742,800 in fiscal year 2002-2003 and \$765,100 in fiscal year 2003-2004 for the administration of the Kentucky Educational Excellence Scholarship Program.

65. EASTERN KENTUCKY UNIVERSITY

	2002-03	2003-04
General Fund	71,668,300	73,515,900
Restricted Funds	83,158,600	87,603,100
Federal Funds	44,454,400	46,665,700
TOTAL	199,281,300	207,784,700

Included in the above General Fund appropriation is \$3,700,400 in fiscal year 2002-2003 and \$3,712,100 in fiscal year 2003-2004 for debt service for previously issued bonds.

Included in the above General Fund appropriation is \$200,000 each fiscal year for maintenance and operation support of the university farm and which shall be expended for no other purpose.

66. KENTUCKY STATE UNIVERSITY

	2002-03	2003-04
General Fund	22,412,400	22,631,500
Restricted Funds	16,446,900	17,699,000
Federal Funds	11,500,400	11,730,400
TOTAL	50,359,700	52,060,900

Included in the above General Fund appropriation is \$2,247,600 in fiscal year 2002-2003 and \$2,252,000 in fiscal year 2003-2004 for debt service for previously issued bonds.

67. MOREHEAD STATE UNIVERSITY

	2002-03	2003-04
General Fund	41,729,800	42,738,200
Restricted Funds	46,293,500	47,104,600
Federal Funds	46,570,500	51,207,100
TOTAL	134,593,800	141,049,900

Included in the above General Fund appropriation is \$1,543,700 in fiscal year 2002-2003 and \$1,452,600 in fiscal year 2003-2004 for debt service for previously issued bonds.

Included in the above General Fund appropriation is \$200,000 each fiscal year for maintenance and operation support of the university farm and which shall be expended for no other purpose.

68. MURRAY STATE UNIVERSITY

	2002-03	2003-04
General Fund	50,388,100	51,472,900
Restricted Funds	68,752,700	72,256,200
Federal Funds	10,646,700	10,906,800
TOTAL	129,787,500	134,635,900

Included in the above General Fund appropriation is \$1,880,700 in fiscal year 2002-2003 and \$1,884,500 in fiscal year 2003-2004 for debt service for previously issued bonds.

Included in the above General Fund appropriation is \$200,000 each fiscal year for maintenance and operation support of the university farm and which shall be expended for no other purpose.

69. NORTHERN KENTUCKY UNIVERSITY

	2002-03	2003-04
General Fund	45,257,600	47,092,700
Restricted Funds	66,180,400	69,535,800
Federal Funds	7,422,000	7,669,100
TOTAL	118,860,000	124,297,600

Included in the above General Fund appropriation is \$5,019,600 in fiscal year 2002-2003 and \$5,033,300 in fiscal year 2003-2004 for debt service for previously issued bonds.

70. UNIVERSITY OF KENTUCKY

	2002-03	2003-04
General Fund	304,755,700	308,519,200
Restricted Funds	858,999,900	873,254,500
Federal Funds	126,193,600	128,053,100
TOTAL	1,289,949,200	1,309,826,800

Included in the above General Fund appropriation is \$6,461,300 in fiscal year 2002-2003 and \$5,848,900 in fiscal year 2003-2004 for debt service for previously issued bonds.

Included in the above General Fund appropriation is \$9,081,500 in fiscal year 2002-2003 and \$9,444,700 in fiscal year 2003-2004 to support the operations of the Lexington Community College, of which \$988,100 in fiscal year 2002-2003 and \$732,700 in fiscal year 2003-2004 is for debt service for previously issued bonds.

Included in the above General Fund appropriation is \$300,000 in fiscal year 2002-2003 and \$300,000 in fiscal year 2003-2004 to support medical residency positions at Morehead and Corbin.

Included in the above General Fund appropriation is \$275,500 in fiscal year 2003-2004 to support a domestic violence program.

Included in the above Restricted Funds appropriation is \$14,424,900 in fiscal year 2002-2003 and \$15,388,100 in fiscal year 2003-2004 to support the operations of the Lexington Community College.

Included in the above Federal Funds appropriation is \$5,923,500 in fiscal year 2002-2003 and \$5,923,500 in fiscal year 2003-2004 to support the operations of the Lexington Community College. Included in the above General Fund appropriation is \$103,000 in fiscal year 2002-2003 and \$103,000 in fiscal year 2003-2004 for the Ovarian Cancer Screening Program. Also, notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, General Fund (Tobacco) moneys in the amount of \$700,000 each fiscal year shall be transferred from the Research Challenge Trust Fund's Lung Cancer Research Program and allotted to the Ovarian Cancer Screening Outreach Program at the University of Kentucky as specified in Part IX, Special Provisions, of this Act.

71. UNIVERSITY OF LOUISVILLE

	2002-03	2003-04
General Fund	172,352,500	174,950,000
Restricted Funds	293,702,300	302,317,400
Federal Funds	49,334,100	50,789,900
TOTAL	515,388,900	528,057,300

Included in the above General Fund appropriation is \$11,330,000 in fiscal year 2002-2003 and \$9,504,900 in fiscal year 2003-2004 for debt service for previously issued bonds. Also included in the above General Fund appropriation is \$17,052,900 in fiscal year 2002-2003 and \$17,500,300 in fiscal year 2003-2004 to fulfill the Commonwealth's contractual obligation relating to indigent care furnished via the Quality and Charity Care Trust Agreement. Included in the above Restricted Funds appropriation is \$50,000 in fiscal year 2002-2003 for the Quality and Charity Trust Agreement.

Notwithstanding KRS 45.229, the General Fund appropriation related to the Quality and Charity Trust Agreement in fiscal year 2001-2002 shall not lapse. Notwithstanding KRS 45.229, the General Fund appropriation related to the Quality and Charity Care Trust Agreement in fiscal year 2002-2003 shall continue into fiscal year 2003-2004 for this purpose. Any unused portion of the General Fund appropriation relating to the Quality and Charity Care Trust Agreement shall lapse to the credit of the General Fund at the end of fiscal year 2003-2004.

72. WESTERN KENTUCKY UNIVERSITY

	2002-03	2003-04
General Fund	69,025,000	72,040,100
Restricted Funds	81,837,400	85,598,400
Federal Funds	30,444,000	32,444,000
TOTAL	181,306,400	190,082,500

Included in the above General Fund appropriation is \$3,295,900 in fiscal year 2002-2003 and \$3,114,500 in fiscal year 2003-2004 for debt service for previously issued bonds.

Included in the above General Fund appropriation is \$200,000 each fiscal year for maintenance and operation support of the university farm and which shall be expended for no other purpose.

73. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

	2002-03	2003-04
General Fund	185,313,100	189,097,700
Restricted Funds	177,568,900	185,450,000
Federal Funds	68,053,500	71,735,500
TOTAL	430,935,500	446,283,200

Included in the above General Fund appropriation is \$10,726,000 in fiscal year 2002-2003 and \$10,765,800 in fiscal year 2003-2004 for debt service for previously issued bonds.

Notwithstanding KRS 95A.250(1), or the provisions of any other law, supplemental payments for each qualified professional firefighter under the Firefighters Foundation Fund shall be \$3,100 in fiscal year 2002-2003 and \$3,100 in fiscal year 2003-2004.

Notwithstanding KRS 95A.262(3), \$500,000 is provided each fiscal year of the 2002-2004 biennium for the firefighters training center fund.

TOTAL - POSTSECONDARY EDUCATION

	2002-03	2003-04
General Fund (Tobacco)	7,030,000	6,205,000
General Fund	1,107,939,900	1,168,115,900
Restricted Funds	1,793,829,900	1,842,879,300
Federal Funds	399,747,900	415,252,800
TOTAL	3,308,547,700	3,432,453,000

M. PUBLIC PROTECTION AND REGULATION CABINET

Budget Units

74. BOARD OF CLAIMS/CRIME VICTIMS' COMPENSATION

	2002-03	2003-04
General Fund	635,000	857,300
Restricted Funds	2,539,000	2,936,900
Federal Funds	546,900	557,800
TOTAL	3,720,900	4,352,000

75. ALCOHOLIC BEVERAGE CONTROL

	2002-03	2003-04
General Fund	250,000	1,663,000
Restricted Funds	5,637,600	4,295,200
TOTAL	5,887,600	5,958,200

Included in the above General Fund appropriation is \$250,000 in fiscal year 2002-2003 and \$250,000 in fiscal year 2003-2004 to carry out the provisions of KRS 438.337.

76. FINANCIAL INSTITUTIONS

	2002-03	2003-04
Restricted Funds	8,993,100	9,329,700

77. KENTUCKY RACING COMMISSION

	2002-03	2003-04
General Fund	509,200	522,800
Restricted Funds	15,002,600	13,664,500
TOTAL	15,511,800	14,187,300

78. HOUSING, BUILDINGS AND CONSTRUCTION

	2002-03	2003-04
General Fund	1,718,300	2,318,300
Restricted Funds	12,826,500	12,287,600
TOTAL	14,544,800	14,605,900

79. INSURANCE

General Operations

	2002-03	2003-04
General Fund (Tobacco)	19,405,200	16,855,900
Restricted Funds	22,851,900	24,162,100
TOTAL	42,257,100	41,018,000

80. MINES AND MINERALS

	2002-03	2003-04
General Fund	9,365,000	9,365,000
Restricted Funds	2,261,100	2,043,200
Federal Funds	599,300	598,500
TOTAL	12,225,400	12,006,700

Notwithstanding KRS 342.122, the Kentucky Workers' Compensation Funding Commission will finance a portion of the Mines and Minerals budget through Special Fund assessments. Funds in the amount of \$850,000 in fiscal year 2002-2003 and \$850,000 in fiscal year 2003-2004 shall be transferred to Mines and Minerals.

81. PUBLIC ADVOCACY

	2002-03	2003-04
General Fund	23,925,300	25,389,800
Restricted Funds	3,025,900	3,077,900
Federal Funds	1,569,300	1,384,500
TOTAL	28,520,500	29,852,200

82. PUBLIC SERVICE COMMISSION

	2002-03	2003-04
General Fund	11,527,900	11,752,100
Restricted Funds	2,524,000	24,000
Federal Funds	259,800	272,200
TOTAL	14,311,700	12,048,300

Included in the above General Fund appropriation is \$589,000 in fiscal year 2002-2003 and \$589,000 in fiscal year 2003-2004 for debt service on bonds for the new office building authorized by the 1996 General Assembly.

Notwithstanding KRS 278.150(3), \$793,000 from the General Fund moneys carried forward from fiscal year 2001-2002 into fiscal year 2002-2003 shall lapse to the credit of the General Fund Surplus Account within 30 days of the effective date of this Act.

83. SECRETARY

a. General Operations

	2002-03	2003-04
General Fund	261,200	261,200
Restricted Funds	2,036,900	2,095,700
TOTAL	2,298,100	2,356,900

b. Petroleum Storage Tank Environmental Assurance Fund

	2002-03	2003-04
Restricted Funds	32,103,700	29,660,600

TOTAL - SECRETARY

	2002-03	2003-04
General Fund	261,200	261,200
Restricted Funds	34,140,600	31,756,300
TOTAL	34,401,800	32,017,500

84. BOARD OF TAX APPEALS

	2002-03	2003-04
General Fund	478,100	498,600

85. CHARITABLE GAMING

	2002-03	2003-04
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Restricted Funds	3,460,800	3,603,800
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Notwithstanding KRS 238.570, the gross receipts fee for fiscal year 2002-2003 and fiscal year 2003-2004 shall be fifty-three one-hundredths of one percent.

TOTAL - PUBLIC PROTECTION AND REGULATION CABINET

	2002-03	2003-04
General Fund (Tobacco)	19,405,200	16,855,900
General Fund	48,670,000	52,628,100
Restricted Funds	113,263,100	107,181,200
Federal Funds	2,975,300	2,813,000
TOTAL	184,313,600	179,478,200

N. REVENUE

Budget Units

86. REVENUE CABINET

	2002-03	2003-04
General Fund	66,587,800	66,032,000
Restricted Funds	4,519,000	4,149,200
Road Fund	1,418,000	1,418,000
TOTAL	72,524,800	71,599,200

Pursuant to KRS 136.392, the insurance surcharge rate shall be calculated at a rate to provide sufficient funds in the 2002-2004 fiscal biennium for the Firefighters Foundation Program Fund and the Kentucky Law Enforcement Foundation Program Fund, including the administration of training programs, pay supplements prescribed by statute, and debt service for the respective program funds specified in KRS 15.410 to 15.510, 42.190, 95A.220, and 95A.262 in fiscal year 2002-2003 and fiscal year 2003-2004. The calculation of sufficient funds for the above-named programs shall include any Restricted Funds carried forward from fiscal years 2002-2003 and 2003-2004 provided by the General Assembly in this Act.

The above Road Fund appropriation represents the cost of the Road Fund Compliance and Motor Vehicle Property Tax Programs within the Revenue Cabinet and is to be used exclusively for that purpose.

Notwithstanding KRS 134.400, the administration of the Delinquent Tax Fund is in the Department of Property Valuation. Proceeds shall be deposited to this account, except that the first \$100,000 shall be deposited exclusively to the General Fund. The Revenue Cabinet may retain and expend funds from the accumulated balance in the Delinquent Tax Fund account for the administrative activities of the Revenue Cabinet.

Included in the above General Fund appropriation is \$500,000 in fiscal year 2002-2003 and \$1,000,000 in fiscal year 2003-2004 for personnel and operating costs to support tax compliance efforts to enhance compliance and efficiency in collections.

87. PROPERTY VALUATION ADMINISTRATORS

	2002-03	2003-04
General Fund	27,431,800	28,222,300
Restricted Funds	3,894,100	4,464,100
TOTAL	31,325,900	32,686,400

Notwithstanding KRS 132.590(3)(c) and (4) and 132.597, the property valuation administrators are authorized to take necessary actions to manage expenditures within the appropriated amounts contained in this Act.

TOTAL - REVENUE CABINET

2002-03	2003-04
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General Fund	94,019,600	94,254,300
Restricted Funds	8,413,100	8,613,300
Road Fund	1,418,000	1,418,000
TOTAL	103,850,700	104,285,600

O. TOURISM DEVELOPMENT CABINET

Budget Units

88. OFFICE OF THE SECRETARY

	2002-03	2003-04
General Fund	4,023,800	1,673,800
Restricted Funds	119,000	1,200,000
TOTAL	4,142,800	2,873,800

Included in the above General Fund appropriation is \$2,350,000 in fiscal year 2002-2003 for the purpose of supporting expenditures relating to agencies and programs within the Tourism Development Cabinet. Any funds transferred to other agencies within the Tourism Development Cabinet shall be designated as Restricted Funds and may be used to support the activities, programs, and operations of the agency receiving the respective funds.

89. BREAKS INTERSTATE PARK

	2002-03	2003-04
General Fund	196,000	196,000

90. TRAVEL DEVELOPMENT

	2002-03	2003-04
General Fund	6,900,200	6,900,200
Restricted Funds	2,000,000	0
TOTAL	8,900,200	6,900,200

Included in the above Restricted Fund appropriation is \$2,000,000 in fiscal year 2002-2003 for the Appalachia Bus Program from the Local Government Economic Development Fund Multi-County Fund.

91. PARKS

	2002-03	2003-04
General Fund	28,857,100	28,857,100
Restricted Funds	50,998,000	52,400,000
Federal Funds	14,000	0
TOTAL	79,869,100	81,257,100

Notwithstanding KRS 148.800, 148.805, and 148.810 or any other statute or provision of law to the contrary, the General Assembly authorizes the use of the Park Capital Maintenance and Renovation Fund for any ongoing cost of the Department of Parks.

Included in the above Restricted Fund appropriation is \$923,000 in fiscal year 2002-2003 and \$1,069,000 in fiscal year 2003-2004 for the purpose of providing custodial maintenance and ongoing costs of newly constructed golf courses at Dale Hollow Lake State Park, Yatesville Lake State Park, Grayson Lake State Park, Mineral Mounds State Park, Pennyrile State Park, and Kincaid Lake State Park. If, upon completing the cost/benefit analysis directed in Part IX, Special Provisions, of this Act, the Secretary of the Tourism Development Cabinet determines that completing the newly constructed courses is the most cost-effective option, these funds shall be used to support debt service on new bonds. All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid

regardless of whether there are sufficient moneys available to be transferred from Restricted Fund supported funding program accounts to other accounts of the General Fund.

92. KENTUCKY HORSE PARK

	2002-03	2003-04
General Fund	1,750,000	1,650,000
Restricted Funds	5,942,000	5,632,000
TOTAL	7,692,000	7,282,000

93. KENTUCKY STATE FAIR BOARD

	2002-03	2003-04
General Fund	407,000	712,000
Restricted Funds	30,163,000	30,059,500
TOTAL	30,570,000	30,771,500

Included in the Restricted Funds appropriation is \$371,000 in fiscal year 2002-2003 and \$371,000 in fiscal year 2003-2004 for debt service for Project 55.

Any available Restricted Funds included in the State Fair Board's Capital Budget Account may be transferred to the operating budget to support personnel and operating expenses of the State Fair Board.

Included in the above General Fund appropriation in fiscal year 2003-2004 is \$305,000 for debt service to support Bond Funds totaling \$3,300,000 for the purchase of a Department of Transportation Building adjacent to the property owned by the State Fair Board and to replace roofs.

94. FISH AND WILDLIFE RESOURCES

	2002-03	2003-04
Restricted Funds	27,381,000	28,658,000
Federal Funds	7,850,000	7,650,000
TOTAL	35,231,000	36,308,000

TOTAL-TOURISM DEVELOPMENT CABINET

	2002-03	2003-04
General Fund	42,134,100	39,989,100
Restricted Funds	116,603,000	117,949,500
Federal Funds	7,864,000	7,650,000
TOTAL	166,601,100	165,588,600

P. TRANSPORTATION CABINET

95. TRANSPORTATION CABINET

Budget Units

a. Air Transportation

	2002-03	2003-04
Restricted Funds	4,817,200	4,817,900
Federal Funds	13,800	9,400
TOTAL	4,831,000	4,827,300

Notwithstanding KRS 183.525(5), the Restricted Funds appropriation above includes operational costs of the program.

b. Revenue Sharing

	2002-03	2003-04
Road Fund	220,520,900	224,762,500

1. Included in the above Road Fund appropriation is \$83,411,500 in fiscal year 2002-2003 and \$85,021,900 in fiscal year 2003-2004 for the County Road Aid Program in accordance with KRS 177.320, 179.410, 179.415, and 179.440. Notwithstanding KRS 177.320(2), the above amount has been reduced by \$38,000 in fiscal year 2002-2003 and \$38,000 in fiscal year 2003-2004 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

2. Included in the above Road Fund appropriation is \$101,187,800 in fiscal year 2002-2003 and \$103,141,400 in fiscal year 2003-2004 for the Rural Secondary Program in accordance with KRS 177.320, 177.330, 177.340, 177.350, and 177.360. Notwithstanding KRS 177.320(1), the above amount has been reduced by \$46,000 in fiscal year 2002-2003 and \$46,000 in fiscal year 2003-2004 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

3. Included in the above Road Fund appropriation is \$35,096,600 in fiscal year 2002-2003 and \$35,774,200 in fiscal year 2003-2004 for the Municipal Road Aid Program in accordance with KRS 177.365, 177.366, and 177.369. Notwithstanding KRS 177.365(1), the above amount has been reduced by \$16,000 in fiscal year 2002-2003 and \$16,000 in fiscal year 2003-2004 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

4. Included in the above Road Fund appropriation is \$825,000 in fiscal year 2002-2003 and \$825,000 in fiscal year 2003-2004 for the Energy Recovery Road Fund in accordance with KRS 177.977, 177.9771, 177.9772, 177.978, 177.979, and 177.981.

c. Public Transportation

	2002-03	2003-04
General Fund	5,520,300	4,875,300
Restricted Funds	2,506,100	874,100
Federal Funds	28,864,900	27,517,000
TOTAL	36,891,300	33,266,400

Included in the above General Fund appropriation is \$2,500,000 in fiscal year 2002-2003 and \$2,500,000 in fiscal year 2003-2004 for nonpublic school transportation.

Included in the above General Fund appropriation is \$645,000 in fiscal year 2002-2003 to match federal grants for the TARC Transportation Tomorrow Rapid Transit Study.

d. Highways

	2002-03	2003-04
Restricted Funds	61,627,300	61,633,800
Federal Funds	495,939,000	496,114,400
Road Fund	586,293,600	597,113,200
TOTAL	1,143,859,900	1,154,861,400

1. Included in the above Road Fund appropriation is \$225,082,700 in fiscal year 2002-2003 and \$218,103,800 in fiscal year 2003-2004 for the State Funded Construction Program.

Included in the State Funded Construction Program is \$66,000,000 in fiscal year 2002-2003 and \$67,320,000 in fiscal year 2003-2004 from the Road Fund for the State Resurfacing Program.

Included in the State Funded Construction Program is \$500,000 in fiscal year 2002-2003 and \$500,000 in fiscal year 2003-2004 from the Road Fund for the Specialized Contracts Account.

Included in the State Funded Construction Program is \$121,582,700 in fiscal year 2002-2003 and \$112,543,800 in fiscal year 2003-2004 from the Road Fund for state construction projects in the 2002-2004 Biennial Highway Construction Program. Included within the above Road Fund appropriation is \$2,500,000 in fiscal year 2002-2003 and \$2,500,000 in fiscal year 2003-2004 to support the Kentucky Pride Fund created in KRS 224.43-505.

Included in the State Funded Construction Program is \$37,000,000 in fiscal year 2002-2003 and \$37,740,000 in fiscal year 2003-2004 for the Highway Construction Contingency Account. From the effective date of this Act, there is included within the Highway Construction Contingency Account \$1,000,000 in fiscal year 2002-2003 beyond any dollars expended, encumbered, or committed prior to the effective date of this Act; and \$2,000,000 in fiscal year 2003-2004 to be deposited to the Industrial Road Access Account within the Transportation Cabinet. The Industrial Road Access Account funds are designated to be used solely by the Secretary of the Economic Development Cabinet. These funds may be expended, encumbered, or committed only upon the direction of the Secretary of the Economic Development Cabinet to the Secretary of the Transportation Cabinet. The Secretary of the Economic Development Cabinet may request from the Secretary of the Transportation Cabinet additional funds to be deposited to the Industrial Road Access Account if the funds are necessary to meet specific economic development opportunities in a local community. Any funds not expended from the Industrial Road Access Account prior to June 30, 2003, shall not lapse to the State Highway Construction Program but will remain in the Industrial Road Access Account and carry forward into fiscal year 2003-2004. Included within the above Road Fund appropriation is \$2,500,000 in fiscal year 2002-2003 and \$2,500,000 in fiscal year 2003-2004 to support the Kentucky Pride Fund created in KRS 224.43-505.

2. Projects in the enacted 2000-2002 Biennial Highway Construction Plan are authorized to continue their current authorization into the 2002-2004 biennium.

3. Notwithstanding KRS 177.320(4), included in the above Road Fund appropriation is \$290,000 in fiscal year 2002-2003 and \$290,000 in fiscal year 2003-2004 for the Kentucky Transportation Center.

4. Notwithstanding KRS 48.710, Restricted Funds are appropriated in the amount of \$1,500,000 in fiscal year 2002-2003 and \$1,500,000 in fiscal year 2003-2004 from the sale of surplus equipment to purchase new highway equipment.

e. Vehicle Regulation

	2002-03	2003-04
Restricted Funds	7,001,700	6,699,300
Federal Funds	2,786,600	2,826,200
Road Fund	30,031,700	31,333,800
TOTAL	39,820,000	40,859,300

f. Debt Service

	2002-03	2003-04
Road Fund	167,660,900	161,312,100

1. Included in the above Road Fund appropriation is \$620,600 in fiscal year 2002-2003 and \$620,600 in fiscal year 2003-2004 for toll road lease-rental payments.

2. Included in the above Road Fund appropriation is \$26,334,900 in fiscal year 2002-2003 and \$38,889,500 in fiscal year 2003-2004 for Resource Recovery Road lease- rental payments. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease-rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Transportation Cabinet, pursuant to KRS 143.090. However, if Road Fund resources are not sufficient to meet lease-rental payments, the additional amount required to meet the obligation shall be transferred from the proceeds of the tax levied on the severance or processing of coal by KRS 143.020.

3. Included in the above Road Fund appropriation is \$140,705,400 in fiscal year 2002-2003 and \$121,802,000 in fiscal year 2003-2004 for Economic Development Road lease-rental payments relating to projects financed by Economic Development Road Revenue Bonds previously issued by the Turnpike Authority of Kentucky.

4. Any moneys not required to meet lease-rental payments or to meet the administrative costs of the Turnpike Authority shall be transferred to the State Construction account.

5. Notwithstanding KRS 175.505, no portion of the revenues to the state Road Fund provided by the adjustments in KRS 138.220(2), excluding KRS 177.320 and 177.365, shall accrue to the Debt Payment Acceleration Fund account during the 2002-2004 biennium.

g. General Administration and Support

	2002-03	2003-04
Restricted Funds	29,050,000	29,050,000
Road Fund	70,288,300	75,914,900
TOTAL	99,338,300	104,964,900

Included in the above Road Fund appropriation is \$7,165,600 in fiscal year 2002-2003 and \$7,335,500 in fiscal year 2003-2004 for debt service for previously authorized bonds to construct a new Transportation Cabinet Office Building and parking structure.

h. Judgments

Road Fund resources required to pay judgments shall be transferred from the State Construction Account at the time when actual payments must be disbursed from the State Treasury.

Notwithstanding KRS 45.229, any funds not expended by June 30, 2002, and June 30, 2003, shall not lapse and shall carry forward to the next fiscal year.

TOTAL - TRANSPORTATION CABINET

	2002-03	2003-04
General Fund	5,520,300	4,875,300
Restricted Funds	105,002,300	103,075,100
Federal Funds	527,604,300	526,467,000
Road Fund	1,074,795,400	1,090,436,500
TOTAL	1,712,922,300	1,724,853,900

Q. WORKFORCE DEVELOPMENT CABINET

Budget Units

96. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	2002-03	2003-04
General Fund	1,116,100	1,116,100
Restricted Funds	6,661,200	6,696,400
Federal Funds	190,300	175,400
TOTAL	7,967,600	7,987,900

97. TECHNICAL EDUCATION

	2002-03	2003-04
General Fund	23,150,300	23,150,300
Restricted Funds	20,637,400	19,672,600
Federal Funds	13,037,200	13,037,200
TOTAL	56,824,900	55,860,100

Included in the above General Fund appropriation is \$1,600,000 in fiscal year 2002-2003 and \$521,000 in fiscal year 2003-2004 to provide for start-up costs for the Lincoln County and Jackson County vocational technical schools. In addition, the above General Fund appropriation includes \$644,800 in fiscal year 2002-2003 and \$344,600 in fiscal year 2003-2004 to support the ongoing operational costs of the Lincoln County and Jackson County

vocational technical schools. Notwithstanding KRS 45.229, funds allocated for the ongoing operational costs remaining at the end of fiscal year 2002-2003 shall not lapse but shall be carried forward to fiscal year 2003-2004.

Notwithstanding KRS 341.835, up to \$550,000 from the Unemployment Insurance Penalty and Interest Account in the Department for Employment Services shall be transferred in fiscal year 2002-2003 to the Department for Technical Education to operate training programs.

98. ADULT EDUCATION AND LITERACY

	2002-03	2003-04
General Fund	10,807,600	10,807,600
Restricted Funds	11,104,300	11,104,300
Federal Funds	12,624,500	15,149,400
TOTAL	34,536,400	37,061,300

99. VOCATIONAL REHABILITATION

	2002-03	2003-04
General Fund	11,045,200	11,236,400
Restricted Funds	2,911,100	2,955,100
Federal Funds	43,328,800	44,193,800
TOTAL	57,285,100	58,385,300

100. DEPARTMENT FOR THE BLIND

	2002-03	2003-04
General Fund	1,282,800	1,492,600
Restricted Funds	1,948,800	1,979,000
Federal Funds	7,484,600	7,636,700
TOTAL	10,716,200	11,108,300

101. TEACHERS' RETIREMENT-EMPLOYER'S CONTRIBUTION

	2002-03	2003-04
General Fund	4,627,700	4,743,400

The above General Fund appropriation includes the employer match for salaries paid to Workforce Development Cabinet employees who participate in the Teachers' Retirement System. This match shall be forwarded to the Teachers' Retirement System pursuant to KRS 161.560.

102. TRAINING AND REEMPLOYMENT

	2002-03	2003-04
Federal Funds	48,530,400	49,350,300

103. EMPLOYMENT SERVICES

	2002-03	2003-04
General Fund	69,000	69,000
Restricted Funds	6,051,700	7,443,500
Federal Funds	617,825,500	509,917,900
TOTAL	623,946,200	517,430,400

Notwithstanding KRS 341.835, funds from the Unemployment Insurance Penalty and Interest Account in the Unemployment Compensation Administration Fund shall be used during each fiscal year by the Department for

Employment Services to operate employment and training programs and up to \$550,000 in fiscal year 2002-2003 shall be transferred to the Department for Technical Education to operate training programs.

In addition to supplementing the Unemployment Insurance Trust Fund, Federal Funds available to Kentucky as a result of the Reed Act distribution under Section 903(d) of the Social Security Act, as amended, may be used for the administration of the unemployment compensation law and the public employment offices for costs allowable under the Unemployment Insurance and Wagner-Peyser Programs, subject to the provisions of KRS 48.630.

TOTAL - WORKFORCE DEVELOPMENT CABINET

	2002-03	2003-04
General Fund	52,098,700	52,615,400
Restricted Funds	49,314,500	49,850,900
Federal Funds	743,021,300	639,460,700
TOTAL	844,434,500	741,927,000

R. BUDGET RESERVE TRUST FUND

	2002-03	2003-04
General Fund	5,087,400	*20,421,800
TOTAL	5,087,400	*20,421,800

PART II

CAPITAL PROJECTS BUDGET

Moneys in the Capital Construction Fund are appropriated for the following capital projects subject to the conditions and procedures in this Act. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 2002-2004 biennium. Unless otherwise specified, reauthorized projects shall conform to the original authorization enacted by the General Assembly.

A. GOVERNMENT OPERATIONS

Budget Unit	2002-03	2003-04
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1. Governor's Office for Technology

For the major equipment purchases displayed in this section as funded from Restricted Funds, it is anticipated that these funds shall be transferred from the Operating Budget as funds are available and needed.

a.	Statewide Microwave Network Maintenance		
	Investment Income	1,500,000	
b.	Unified Criminal Justice Information System		
	Reauthorization		
	Capital Construction Surplus - Additional	1,000,000	
	Restricted Funds	805,000	
	TOTAL	1,805,000	
c.	KY Information Highway Upgrade Expansion - Additional		
	Restricted Funds	1,750,000	1,750,000
d.	Enterprise Server Complex Upgrade - Additional		
	Restricted Funds	2,370,000	2,370,000
e.	Disk Storage Upgrade - Additional		
	Restricted Funds	887,000	887,000

f.	Tape Storage Upgrade - Additional		
	Restricted Funds	645,000	645,000
g.	Enterprise Messaging		
	Restricted Funds	660,000	
h.	Franklin County - Lease		
2.	Department of Veterans' Affairs		
a.	New State Veterans' Cemetery-Northern KY		
	General Fund	50,000	
	Federal Funds	9,500,000	
	TOTAL	9,550,000	
b.	New State Veterans' Cemetery-Central KY		
	General Fund	50,000	
	Federal Funds	8,900,000	
	TOTAL	8,950,000	
3.	Kentucky Infrastructure Authority		
a.	KIA Fund A - Federally Assisted Wastewater Program		
	Bond Funds	6,200,000	
<p>The Bond Funds appropriated above are the required state match for the federal program. The Federal Funds associated with the program are appropriated in the operating budget to comply with the Federal Cash Management Act.</p> <p>Included in the above Bond Funds appropriation is the funding required in each fiscal year for the state match necessary to receive Federal Funds for the Rural Communities Hardship Grants Program administered by the Natural Resources and Environmental Protection Cabinet.</p> <p>The Kentucky Infrastructure Authority is authorized to expend the cash balances from loan repayments on deposit at the trustee bank for financial assistance, in the form of low-interest loans, to governmental agencies for professional planning and preliminary engineering design work required for eligible Fund A wastewater projects.</p>			
b.	KIA Fund F - Drinking Water Revolving Loan Program		
	Bond Funds	5,000,000	
<p>The Bond Funds appropriated above are the required state match for the federal program. The Federal Funds associated with the program are appropriated in the operating budget to comply with the Federal Cash Management Act.</p>			
c.	Kentucky Pride Fund Projects		
	Bond Funds	25,000,000	
d.	Water and Sewer Resources Development		
	Fund for Tobacco Counties		
	Bond Funds		54,765,000
e.	Water and Sewer Resources Development		
	Fund for Coal Producing Counties		
	Bond Funds		54,765,000
4.	Treasury Department		
a.	Checksealer Equipment - Lease - Additional		

	Capital Construction Surplus	63,000	63,000
b.	Laser Check Printers - Lease - Additional		
	Capital Construction Surplus	257,000	256,000
5.	Attorney General		
a.	Franklin County - Lease		
6.	Unified Prosecutorial System - Commonwealth's Attorneys		
a.	Jefferson County - Lease		
7.	Department of Agriculture		
a.	Large Scale Tractor		
	Restricted Funds	175,000	
b.	Purchase of Agriculture Conservation Easements		
	Federal Funds	460,000	
c.	Livestock Scale Testing Unit		
	Restricted Funds	100,000	
d.	Franklin County - Lease		
e.	Animal Shelters		
	Bond Funds	1,600,000	
8.	Department of Military Affairs		
a.	Construct Maintenance Shop- London		
	Federal Funds	3,640,000	
b.	Construct Combined Support Maintenance Shop		
	Federal Funds	10,465,000	
c.	Construct Army Aviation Support Facility		
	Federal Funds	17,500,000	
d.	Construct Fixed Wing Aviation Facility		
	Federal Funds	4,000,000	
e.	Upgrade HVAC Ashland Armory		
	(Guaranteed Energy Performance Contract)		
f.	Upgrade HVAC Owensboro Armory		
	(Guaranteed Energy Performance Contract)		
g.	Construct Addition to Facilities Building		
	Federal Funds	911,000	
h.	Maintenance Pool		
	Investment Income	743,400	742,900
i.	Maintenance Pool - Air Transportation		
	Investment Income	400,000	371,400
j.	Maintenance Pool - Bluegrass Station		
	Restricted Funds	500,000	500,000

- k. Franklin County - Lease
- 9. Department for Local Government
 - a. Flood Control Matching Fund

Bond Funds	3,000,000
Capital Construction and Equipment	
Purchase Contingency Fund	300,000
TOTAL	3,300,000
 - b. Renaissance Kentucky

Bond Funds	6,000,000
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- 10. Morgan County - Park Development - Caney Creek
Reauthorization and Reallocation (\$30,709 - Bond Funds)

The project cited immediately above is authorized from a reallocation of the available balance of the Morgan County Bridge Project appropriated by the 2000 General Assembly in the amount \$200,000 in Bond Funds (2000 Ky. Acts ch. 549, Part II, R. Community Development Projects, 1. Finance and Administration Cabinet, item number 556, Morgan County Bridge Project). In accordance with the provisions of Capital Projects Budget Provisions for Part II, Capital Projects, 1., of this Act, this project is reauthorized and reallocated to provide for development of a park at the mouth of Caney Creek.

- 11. Fleming County Fiscal Court - Fire Departments
Reauthorization and Reallocation (\$100,000 - General Fund)

The project cited immediately above is authorized from a reallocation of the available balance of the Fleming County Fiscal Court - Environmental Program project appropriated by the 2000 General Assembly in the amount of \$100,000 from the General Fund (2000 Ky. Acts ch. 549, Part II, R. Community Development Projects 1. Finance and Administration Cabinet, General Administration, item number 188, Fleming County Fiscal Court - Environmental Program.) In accordance with the provisions of Capital Projects Budget Provisions for Part II, Capital Projects, 1., of this Act, this project is reauthorized and \$100,000 is reallocated to Fleming County Fiscal Court and entitled Fleming County Fiscal Court - Volunteer Fire Departments to be distributed equally among the five Fleming County Volunteer Fire Departments.

- 12. Kentucky Retirement Systems
 - a. Franklin County - Lease
 - b. Franklin County - Lease
- 13. Board of Nursing
 - a. Jefferson County - Lease
- 14. Kentucky River Authority
 - a. Kentucky River Storage Enhancements

Restricted Funds	30,000	2,500,000
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B. CABINET FOR ECONOMIC DEVELOPMENT

Budget Unit	2002-03	2003-04
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- 1. Economic Development Projects
 - a. Kentucky Economic Development Finance
Authority Bond Pool

Bond Funds	30,000,000
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 - b. Economic Development Bond Pool

Bond Funds	10,000,000
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c. New Economy High-Tech Investment/Construction Pool

Restricted Funds	10,000,000
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The Commissioner of the Office for the New Economy shall determine the amounts to be apportioned between the High-Tech Investment Pool and the High-Tech Construction Pool.

Moneys available to the Kentucky Economic Development Finance Authority (KEDFA) under KRS 154.20-010 to 154.20-180 shall be used exclusively for the purposes of those statutes or as expressly provided for in this Act. Nothing in this Act shall prohibit the transfer of funds from KEDFA to the New Economy Program as set out in this Act.

d. Rupp Arena/Lexington Civic Center

Bond Funds	15,000,000
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e. New Economy Bond Pool

Bond Funds	15,000,000
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C. EDUCATION

Budget Unit	2002-03	2003-04
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1. Department of Education

a. Security, Fire Alarm, & Energy Systems - Kentucky School for the Blind

Bond Funds	450,000
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b. Replace Kerr Hall HVAC - Kentucky School for the Deaf

Bond Funds	1,067,000
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c. Maintenance Pool

Investment Income	557,600	557,100
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d. Roof Repair - Kentucky School for the Deaf

Capital Construction Surplus	520,000
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D. EDUCATION, ARTS, AND HUMANITIES CABINET

Budget Unit	2002-03	2003-04
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1. School Facilities Construction Commission

a. Reauthorization (\$28,000,000 Bond Funds)

Bond Funds - Additional	136,865,000
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b. Urgent Need School Trust Fund

Bond Funds	55,284,000
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c. Category 5 Buildings

Bond Funds	54,730,900
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2. Kentucky Educational Television

a. Camera Replacement

Restricted Funds	445,000
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3. Kentucky Center for the Arts

a. Maintenance Pool

Investment Income	150,000	139,400
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b. Chiller Replacement

	Investment Income	250,000
c.	Water Leak and Window Repair	
	Deferred Maintenance	957,000

E. CABINET FOR FAMILIES AND CHILDREN

Budget Unit	2002-03	2003-04
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1. Administration Services
 - a. Lease - Disability Determinations Franklin County
 - b. Lease - Fayette County
 - c. Lease - Warren County
 - d. Lease - Kenton County
 - e. Lease including expansion - Jefferson County
 - f. Lease - Hardin County
 - g. Lease - Kenton County
 - h. Lease - Campbell County
 - i. Lease - Child Support Franklin County
 - j. Lease including expansion - Letcher County
 - k. Lease - OTS Franklin County
 - l. Lease including expansion - Harlan County
 - m. Lease including expansion - Henderson County
 - n. Lease including expansion - Perry County
 - o. Lease - Shelby County
 - p. Lease including expansion - Fayette County
 - q. Lease - Johnson County
 - r. Lease including expansion - Boyd County
 - s. Lease including expansion - Boone County

F. FINANCE AND ADMINISTRATION CABINET

Budget Unit	2002-03	2003-04
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1. Office of the Secretary
 - a. Hardin County - Elizabethtown - Children's Science and Learning Center
Reauthorization and Reallocation (\$367,057.67 - General Fund)

The project cited immediately above is authorized from a reallocation of available balance of the Hardin County - Elizabethtown - Children's Science and Learning Center project appropriated by the 1998 General Assembly from the General Fund in the amount of \$500,000 (1998 Ky. Acts ch. 615, Part II, Capital Projects Budget, F. Finance and Administration Cabinet, 4. Office of the Secretary Community Infrastructure Projects, item k. Elizabethtown - Children's Science and Learning Center). This project is reauthorized and \$100,000 is reallocated to the Hardin County Fiscal Court for the Community Health Clinic of Hardin and Larue Counties, \$48,000 is reallocated to the Hardin County Fiscal Court for the Spring Haven, Inc. Domestic Violence Center in Elizabethtown, \$35,000 is reallocated to the Hardin County Fiscal Court for the Advocacy and Support Center for Sexual Assault and Abuse in Elizabethtown, \$167,057.67 is reallocated to the City of Elizabethtown for the renovation of the Historic State Theatre Project, and \$17,000 is reallocated to the Hardin County Fiscal Court for the Regional Farmers Market Feasibility Study in Elizabethtown. The Farmers Market Feasibility Study will be sponsored by the Elizabethtown and Hardin County Chamber of Commerce. The Secretary of the Finance and Administration Cabinet may reassign projects to another appropriate state agency by

Administrative Order after notification has been made to the Interim Joint Committee on Appropriations and Revenue and to the Capital Projects and Bond Oversight Committee.

2.	Department for Administration		
a.	Franklin County - Lease		
3.	Department for Facilities Management		
a.	Capitol Historic Restoration/Asbestos Removal/Repair - State Office Building		
	Reauthorization/Reallocation		
	(6,000,000 - Bond Funds)		
b.	Energy Efficiency in State Government Buildings		
	Restricted Funds	1,075,000	
c.	Replace Roof - Civic Center		
	Investment Income	1,200,000	
d.	Maintenance Pool		
	Investment Income	3,386,400	3,250,000
	Restricted Funds	240,000	100,000
	TOTAL	3,626,400	3,350,000
e.	Modernize Elevators/Escalators - Various Buildings		
	Investment Income	1,300,000	
f.	Install Building Security Systems - Various Buildings		
	Restricted Funds	750,000	
g.	Capital Construction and Equipment Purchase Contingency Fund		
	Restricted Funds	3,350,000	
h.	Emergency Repair, Maintenance and Replacement Fund		
	Restricted Funds	4,195,000	
i.	Guaranteed Energy Performance Projects Pool		
4.	Lottery Corporation		
a.	Network Storage and Associated Infrastructure		
	Other Funds	930,000	
b.	Contingency on Property Adjacent to New Headquarters		
	Other Funds	3,500,000	
c.	Data Processing, Telecommunication, and Related Equipment		
	Other Funds	3,500,000	
d.	Potential Buyout of On-Line Gaming System		
	Other Funds	18,450,000	
e.	Instant Ticket Vending Machine		
	Other Funds	900,000	900,000
f.	Pull Tab Ticket Vending Machines		
	Other Funds	1,500,000	1,500,000

The Kentucky Lottery Corporation may acquire properties related to the consolidation of the Kentucky Lottery's facilities assuming one or more of the properties becomes available for purchase. The purchase price of the properties shall not exceed \$2,500,000 in the aggregate.

G. CABINET FOR HEALTH SERVICES

Budget Unit	2002-03	2003-04
1. Public Health		
a. Kentucky All Schedule Prescription Electronic Reporting		
Restricted Funds	1,474,000	
2. Department for Mental Health/Mental Retardation Services		
a. Miscellaneous Roof Replacement/Repair Pool		
Bond Funds	700,000	
b. Statewide Chiller Replacement Pool		
Bond Funds	612,000	
c. Franklin County - Lease		
d. Maintenance Pool		
Investment Income	1,301,000	1,300,000
e. Water Piping Replacement System - Eastern State Hospital/Veterans Hospital Relocation		
Reauthorization & Reallocation - Additional		
Bond Funds	250,000	
f. Sprinkler System/Ward Renovation - Western State Hospital		
Bond Funds	2,200,000	
g. Structural Repair/Renovation - Oakwood		
Bond Funds	2,009,000	
h. Sprinkler System - Central State Hospital		
Bond Funds	850,000	
i. Veterans Administration Hospital - Lease		

H. JUSTICE CABINET

Budget Unit	2002-03	2003-04
1. Justice Administration		
a. Purchase 2 Gas/Liquid Chromatograph Mass/Spectrometers		
Capital Construction Surplus	250,000	
2. Department of State Police		
a. Purchase of Equipment for DNA Analysis		
Restricted Funds	136,000	136,000
b. Maintenance Pool		
Investment Income	232,300	232,100
3. Department of Juvenile Justice		
a. Combined Residential/Detention Facility - Hardin -Additional		

	Federal Funds	1,000,000	
b.	Secure Juvenile Detention Facility #3 - Boyd - Additional		
	Federal Funds	500,000	
c.	Maintenance Pool		
	Investment Income	371,700	371,400
d.	Purchase Land/Build Gym/Class Cadet Leadership/Education Program		
	Restricted Funds	130,000	
	Federal Funds	1,170,000	
	TOTAL	1,300,000	
e.	Add Classrooms - Green River Youth Development Center		
	Restricted Funds	60,000	
	Federal Funds	540,000	
	TOTAL	600,000	
4.	Corrections Management		
a.	Replace/Repair Roofs - Green River Correctional Complex		
	Bond Funds	2,500,000	
b.	Replace Underground Steam & Condensate Lines - Blackburn Correctional Complex		
	Bond Funds	1,260,000	
c.	Replace Fire Alarm System - Luther Luckett Correctional Complex		
	Bond Funds	1,000,000	
d.	Replace Dorm Roofs - Northpoint Training Center		
	Bond Funds	600,000	
e.	Replace Four Color Heidelberg Printing Press		
	Restricted Funds	900,000	
f.	Purchase Plascon Bagmaking Machine		
	Restricted Funds	160,000	
g.	Various Adult Correctional Institutions (Guaranteed Energy Performance Contract)		
h.	Maintenance Pool		
	Investment Income	1,672,700	1,671,400
i.	New Medium Security Facility/Design Elliott County Phase II Reauthorization and Reallocation (1,800,000 - Bond Funds)		
j.	Fayette County - Lease		
k.	Boot Camp/Substance Abuse Treatment Center-Roederer Correctional Complex Reauthorization and Reallocation (1,004,000 - Bond Funds)		

I. LABOR CABINET

Budget Unit

2002-03

2003-04

1. General Administration and Support

a. Franklin County - Lease

2. Workers' Claims

a. Franklin County - Lease

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Budget Unit	2002-03	2003-04
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1. General Administration and Support

a. KY Heritage Land Conservation

Restricted Funds	3,000,000	3,000,000
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Federal Funds	1,000,000	1,000,000
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TOTAL	4,000,000	4,000,000
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b. Maintenance Pool

Investment Income	93,000	92,900
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2. Department for Environmental Protection

a. Hazardous Waste Management Fund

Restricted Funds	2,100,000	2,100,000
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b. Leaking Underground Storage Tanks

Restricted Funds	500,000	500,000
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c. State-Owned Dam Construction/Renovation - City of Franklin

Bond Funds		1,000,000
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d. Franklin County - Lease (Water)

e. Franklin County - Lease (Air Quality)

f. Construct Deep Well Monitoring - Maxey Flats

Capital Construction and Equipment

Purchase Contingency Fund	500,000	
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3. Department for Surface Mining Reclamation and Enforcement

a. Franklin County - Lease

4. Kentucky Nature Preserves Commission

a. KY Nature Preserves Acquisition

Other Funds	300,000	300,000
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K. PERSONNEL CABINET

Budget Unit	2002-03	2003-04
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1. Personnel

a. Franklin County - Lease

b. Computer Equipment - Kentucky Employees' Self-Service Project

Capital Construction Surplus	200,000	
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L. POSTSECONDARY EDUCATION

Budget Unit	2002-03	2003-04
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1. Council on Postsecondary Education
 - a. Fire/ Life Safety/ Infrastructure - Agency Bond Pool

Agency Bonds	80,000,000
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 - b. Franklin County - Lease
 - c. Research Challenge Trust Fund - Endowment Match

Bond Funds	100,000,000
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 - d. Regional University Excellence Trust Fund - Endowment Match

Bond Funds	20,000,000
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 - e. Renovation/ Infrastructure/ New Construction - Agency Bond Pool

Agency Bonds	75,000,000
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2. Kentucky Higher Education Assistance Authority
 - a. Upgrade Information Technology Systems

Restricted Funds	650,000
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 - b. Franklin County - Lease
 - c. KY Higher Education Student Loan Corporation

Lease - Jefferson County	
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3. Eastern Kentucky University
 - a. Maintenance Pool

Restricted Funds	10,000,000
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 - b. E & G Life Safety Begley Elevator

Restricted Funds	750,000
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 - c. Various Buildings

(Guaranteed Energy Savings Project)	
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 - d. Expand, Upgrade Campus Data Network

Restricted Funds	1,000,000
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 - e. Purchase Network Education System Component

Restricted Funds	2,050,000
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 - f. Upgrade Academic Computing

Restricted Funds	1,000,000
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 - g. Upgrade Administrative Computing System

Restricted Funds	1,100,000
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 - h. Property Acquisition

Restricted Funds	3,000,000
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 - i. Replace Student Housing, Brockton

Restricted Funds	8,250,000
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 - j. Expand and Renovate Presnell Building

Restricted Funds	2,000,000
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 - k. Expand Indoor Tennis Facility

	Restricted Funds	1,000,000	
l.	Watts Property (Elmwood) Renovation		
	Restricted Funds	2,000,000	
m.	Greek Row		
	Reauthorization		
n.	Construction of New Water Line - Corbin Campus/Reauthorization and Reallocation		
	Bond Funds (422,000)		
o.	High Voltage Electrical Distribution System		
	Restricted Funds	10,500,000	
4.	Kentucky State University		
a.	Renovate and Expand Student Center		
	Reauthorization		
	Restricted Funds - Additional	4,400,000	
b.	Young Hall Renovation		
	Reauthorization		
	Restricted Funds - Additional	6,214,000	
c.	Capital Renewal and Deferred Maintenance Pool		
	Restricted Funds	1,500,000	
d.	Migrate to Client-Server and Laptop Campus Technology		
	Restricted Funds	860,000	
e.	Enhance Distance Education		
	Restricted Funds	560,000	
f.	Extend Fiber Network to South Campus		
	Restricted Funds	806,000	
g.	Enhance Web Site		
	Restricted Funds	410,000	
h.	Implement Smart Card Technology		
	Restricted Funds	1,120,000	
i.	Various Buildings		
	(Guaranteed Energy Savings Project)		
j.	Cooperative Extension Building Expansion		
	Reauthorization		
	Restricted Funds - Additional	3,224,000	
5.	Morehead State University		
a.	Capital Renewal and Deferred Maintenance Pool		
	Restricted Funds	3,414,000	3,414,000
b.	Life Safety: Auxiliary Facilities		

	Restricted Funds	3,800,000	
c.	Parking Structure		
	Restricted Funds	6,000,000	
d.	Life Safety: E & G Facilities		
	Restricted Funds	1,350,000	
e.	Life Safety: Claypool-Young Building		
	Restricted Funds	500,000	
f.	Americans with Disabilities Act - E & G		
	Restricted Funds	600,000	600,000
g.	Combs Theatre Area Reclamation		
	Restricted Funds	1,100,000	
h.	Button Auditorium Renovation		
	Restricted Funds	3,000,000	
i.	Various Buildings		
	(Guaranteed Energy Savings Project)		
j.	Americans with Disabilities Act - Auxiliary		
	Restricted Funds	600,000	600,000
k.	Land Acquisitions Related to Master Plan		
	Restricted Funds	2,000,000	
l.	Instructional Technology Initiatives		
	Restricted Funds	2,159,000	
m.	HPLC-Mass Spectrometer		
	Restricted Funds	140,000	
n.	Instructional and Support Equipment		
	Restricted Funds	1,334,000	
o.	Nuclear Magnetic Resonance Equipment		
	Restricted Funds	210,000	
p.	Network/Infrastructure Resources		
	Restricted Funds	2,250,000	
q.	Library Automation Resources		
	Restricted Funds	750,000	
r.	Distance Learning Systems		
	Restricted Funds	2,500,000	
s.	Compressed Video Resources		
	Restricted Funds	1,891,000	
t.	Instructional PC's/LANS/Peripherals		
	Restricted Funds	2,500,000	
u.	Administrative Office Systems		

	Restricted Funds	2,000,000
v.	Central Campus Reconstruction	
	Restricted Funds	780,000
w.	Student Wellness Center Expansion	
	Restricted Funds	700,000
x.	Kentucky Center for Traditional Music - Phase I	
	Restricted Funds	1,000,000
y.	Construction of Family Housing Complexes - Phase II	
	Restricted Funds	4,000,000
z.	Tour Bus	
	Restricted Funds	400,000
6.	Murray State University	
a.	Construct Recreation/Wellness Center	
	Restricted Funds	10,000,000
b.	Equine Instruction Facility Addition	
	Restricted Funds	920,600
c.	Various Buildings	
	(Guaranteed Energy Savings Project)	
d.	Campus Electrical Distribution System Upgrade	
	Restricted Funds	10,765,000
e.	Construct New Dormitories	
	Restricted Funds	10,154,000
f.	Woods Hall Mechanical and HVAC System Upgrade	
	Restricted Funds	2,000,000
g.	Land Acquisition	
	Restricted Funds	500,200
h.	Elizabeth Hall Asbestos Ceilings	
	Restricted Funds	450,000
i.	Hester Hall Asbestos Ceilings	
	Restricted Funds	450,000
j.	College Courts Renovation	
	Restricted Funds	3,636,000
k.	College Courts Interiors (12 Buildings) Renovation	
	Restricted Funds	2,000,000
l.	Clark Hall Replacement	
	Restricted Funds	8,000,000
m.	Clark Hall Water Piping, Fixtures Replacement	
	Restricted Funds	600,000

n.	Replace Richmond Hall	
	Restricted Funds	8,000,000
o.	College Courts Electrical System Upgrade	
	Restricted Funds	1,200,000
p.	Franklin Hall Replacement	
	Restricted Funds	8,000,000
q.	Heating and Cooling Plant Boiler Replacement	
	Restricted Funds	666,000
r.	Sparks Hall Electrical System Upgrade	
	Restricted Funds	952,000
s.	Wells Hall Electrical System Upgrade	
	Restricted Funds	600,000
t.	Applied Science Electrical System Upgrade	
	Restricted Funds	850,000
u.	Renovate Sparks Hall HVAC System	
	Restricted Funds	500,000
v.	Special Education HVAC System	
	Restricted Funds	500,000
w.	Pogue Library Electric and HVAC Renovation	
	Restricted Funds	750,000
x.	Business Building Electricity, HVAC and Classrooms Phase I	
	Restricted Funds	1,530,000
y.	General Services HVAC System Renovation	
	Restricted Funds	500,000
z.	E & G Chiller/CFC Compliance Replacement	
	Restricted Funds	585,000
aa.	Doyle Fine Arts HVAC and Energy Replacement/Retrofit	
	Restricted Funds	750,000
ab.	Richmond Hall (Residential College) Renovation	
	Restricted Funds	2,500,000
ac.	Richmond Hall Interior Renovation	
	Restricted Funds	500,000
ad.	Richmond Hall Water Piping/Fixtures Replacement	
	Restricted Funds	600,000
ae.	Clark Hall Interior Renovation	
	Restricted Funds	500,000
af.	Clark Hall Electrical System Renovation	
	Restricted Funds	400,000

ag.	Clark Hall HVAC System Renovation	
	Restricted Funds	1,000,000
ah.	Franklin Hall HVAC System Renovation	
	Restricted Funds	1,000,000
ai.	Franklin Hall Electrical System Renovation	
	Restricted Funds	400,000
aj.	Franklin Hall Water Piping, Fixtures Replacement	
	Restricted Funds	600,000
ak.	Franklin Hall Interior Renovation	
	Restricted Funds	600,000
al.	Springer Hall HVAC and Electrical System Renovation	
	Restricted Funds	2,000,000
am.	Richmond Hall Electrical System Renovation	
	Restricted Funds	400,000
an.	Springer Hall Water Piping, Fixtures Replacement	
	Restricted Funds	800,000
ao.	Springer Hall Interior Renovation	
	Restricted Funds	600,000
ap.	Hart Hall Renovation	
	Restricted Funds	5,000,000
aq.	Hart Hall Chiller, Boilers, Towers Replacement	
	Restricted Funds	1,200,000
ar.	Hart Hall Electrical System Renovation	
	Restricted Funds	650,000
as.	Elizabeth Hall Electrical System Renovation	
	Restricted Funds	550,000
at.	Hester Hall HVAC System Renovation	
	Restricted Funds	1,000,000
au.	Hester Hall Interior Renovation	
	Restricted Funds	700,000
av.	Hester Hall Boiler, Water Heater Replacement	
	Restricted Funds	600,000
aw.	Hester Hall Electrical System Renovation	
	Restricted Funds	580,000
ax.	Winslow Cafeteria Mechanical Equipment Replacement	
	Restricted Funds	500,000
ay.	Winslow Cafeteria Exterior Repair	
	Restricted Funds	500,000

az.	Elizabeth Hall HVAC System Renovation	
	Restricted Funds	1,200,000
ba.	White Hall Domestic Water Piping Replacement	
	Restricted Funds	500,000
bb.	White Hall HVAC System Renovation	
	Restricted Funds	1,000,000
bc.	White Hall Electrical System Renovation	
	Restricted Funds	600,000
bd.	White Hall Interior Renovation	
	Restricted Funds	700,000
be.	Regents Hall Domestic Water Piping Replacement	
	Restricted Funds	500,000
bf.	Regents Hall HVAC System Renovation	
	Restricted Funds	1,000,000
bg.	Regents Hall Electrical System Renovation	
	Restricted Funds	650,000
bh.	Regents Hall Interior Renovation	
	Restricted Funds	800,000
bi.	Hart Hall Interior Renovation	
	Restricted Funds	1,200,000
bj.	Elizabeth Hall Interior Renovation	
	Restricted Funds	700,000
bk.	Capital Renewal and Deferred Maintenance Pool	
	Restricted Funds	16,885,000
bl.	Telephone Switching System Replacement	
	Restricted Funds	1,000,000
bm.	Waterfield Library HVAC and Mechanical Replacement	
	Restricted Funds	500,000
bn.	Campus Network to Gigabit Ethernet Upgrade	
	Restricted Funds	1,000,000
bo.	Lovett Auditorium Shell/Seats Replacement and Repair	
	Restricted Funds	550,000
bp.	350-Ton Chiller - Regional Special Events Center	
	Restricted Funds	400,000
bq.	COLT Ubiquitous Computing	
	Restricted Funds	434,000
br.	Baseball Field and Stadium Sidewalk Light	
	Restricted Funds	600,000

bs.	BVC Electron Microscope - Scanning	
	Restricted Funds	300,000
bt.	BVC Electron Microscope - Transmission	
	Restricted Funds	250,000
bu.	Broadcasting Education Lab Equipment	
	Restricted Funds	200,000
bv.	Business and Public Affairs Equipment	
	Restricted Funds	300,000
bw.	Central On-Line Storage System	
	Restricted Funds	966,000
bx.	College of Science Instructional/Research Equipment	
	Restricted Funds	300,000
by.	Fine Arts Studio Equipment	
	Restricted Funds	419,000
bz.	ICP-MS Fisions Instruments	
	Restricted Funds	142,000
ca.	Music Computer Equipment	
	Restricted Funds	250,000
cb.	Optics Lab Equipment	
	Restricted Funds	170,000
cc.	Recording/Playback Lab & Instrument	
	Restricted Funds	188,000
cd.	Regional Center for Emerging Technology	
	Other Funds	3,000,000
ce.	Winslow Dining Hall Renovation	
	Restricted Funds	2,500,000
7.	Northern Kentucky University	
a.	New Student Union Design	
	Restricted Funds	1,200,000
b.	Power Distribution Infrastructure Replacement	
	Restricted Funds	700,000
c.	AS and T Center Classroom Conversion	
	Restricted Funds	1,500,000
d.	Welcome Center Renovation	
	Restricted Funds	700,000
e.	Capital Renewal and Maintenance Projects	
	Restricted Funds	2,315,000
f.	Land Acquisition	

	Restricted Funds	2,500,000
g.	Central Plaza Reconstruction	
	Restricted Funds	900,000
h.	Digital Telecom System	
	Restricted Funds	1,900,000
i.	Baseball Field Relocation	
	Restricted Funds	1,500,000
j.	Information Technology Infrastructure	
	Restricted Funds	2,700,000
k.	Administrative Application System	
	Restricted Funds	2,500,000
l.	Intramural Sports Field	
	Restricted Funds	750,000
m.	Coach Bus	
	Restricted Funds	375,000
n.	Color Press	
	Restricted Funds	235,000
o.	NMR Spectrometer	
	Restricted Funds	385,000
p.	Various Buildings	
	(Guaranteed Energy Savings Project)	
q.	New Residence Hall	
	Reauthorization	
r.	Construct Parking Deck	
	Restricted Funds	9,100,000
s.	Metropolitan Education and Training Center - Lease	
t.	Fitness Room Renovation	
	Restricted Funds	850,000
8.	University of Kentucky	
a.	Early Childhood Education Lab	
	Restricted Funds	8,000,000
b.	Replace Oswald Building Roof	
	Restricted Funds	1,089,000
c.	Improve Storm Sewer Funkhouser	
	Restricted Funds	1,003,000
d.	Renovate Agriculture Building North Facade	
	Restricted Funds	3,820,000
e.	Renovate King South Building I	

	Restricted Funds	8,025,000
f.	Upgrade Vivarium, I	
	Restricted Funds	4,000,000
g.	Replace Central Fire Alarm System	
	Restricted Funds	3,000,000
h.	Replace Central Facilities Management System	
	Restricted Funds	3,000,000
i.	Replace Steam and Condensate Pipe	
	Restricted Funds	5,350,000
j.	Improve Central Heating Plant	
	Restricted Funds	2,750,000
k.	Replace Master Clock and Bell System	
	Restricted Funds	1,500,000
l.	Replace High Voltage Wiring	
	Restricted Funds	441,000
m.	Replace Three Elevators MIK Library South	
	Restricted Funds	742,000
n.	Abate Mercury Lexington Campus - Life Safety	
	Restricted Funds	1,000,000
o.	Upgrade Fume Hoods -LC - Life Safety	
	Restricted Funds	7,015,000
p.	Upgrade Pharmacy Fume Hood I - Life Safety	
	Restricted Funds	4,300,000
q.	Abate Asbestos LC II - Life Safety	
	Restricted Funds	500,000
r.	Improve Indoor Air Quality - Phase I - Life Safety	
	Restricted Funds	500,000
s.	Upgrade HVAC - CAER Ph. III - Life Safety	
	Restricted Funds	450,000
t.	Improve Barker Hall - Life Safety	
	Restricted Funds	500,000
u.	Improve Life Safety, Project Pool	
	Restricted Funds	3,708,000
v.	Renovate Livestock Disease Diagnostics Laboratory	
	Restricted Funds	2,800,000
w.	Improve Handicapped Access, Project Pool	
	Restricted Funds	1,908,000
x.	Improve Plant - Capital Renewal Pool	

	Restricted Funds	16,388,000
y.	Construct Environmental Institute	
	Restricted Funds	12,604,000
z.	Renovate the COHR in the Dental Building	
	Restricted Funds	1,875,000
aa.	Install Chilled Water Pipe-Clg 2 to Pit	
	Restricted Funds	1,300,000
ab.	Install Cooling Secondary Pumping	
	Restricted Funds	2,250,000
ac.	Renovate Medical Center Library	
	Restricted Funds	2,000,000
ad.	Install Medical Center Chilled Water Loop	
	Restricted Funds	625,000
ae.	Expand Plant Capacity/Infrastructure	
	Restricted Funds	15,000,000
af.	Renovate Education Space in Medical Science	
	Restricted Funds	2,300,000
ag.	Renovate Outpatient Clinic in Kentucky Clinic	
	Restricted Funds	2,000,000
ah.	Replace Cooling Plant Chillers	
	Restricted Funds	5,000,000
ai.	Install HVAC in Keeneland Hall	
	Restricted Funds	2,962,000
aj.	Renovate Cooperstown - Phase IVA	
	Restricted Funds	1,279,000
ak.	Install HVAC in Jewell Hall	
	Restricted Funds	1,290,000
al.	Install HVAC in Boyd Hall	
	Restricted Funds	1,715,000
am.	Renovate Labs in the Pharmacy Building	
	Restricted Funds	1,400,000
an.	Renovate Cooperstown - Phase IV	
	Restricted Funds	426,000
ao.	Renovate Parking Structure #1	
	Restricted Funds	7,714,000
ap.	Replace Holmes Elevator	
	Restricted Funds	585,000
aq.	Construct Parking Structure	

	Restricted Funds	16,280,000
ar.	Expand Patient Parking in Structure #3	
	Restricted Funds	7,000,000
as.	Install HVAC in Holmes Hall	
	Restricted Funds	1,700,000
at.	Acquire Land	
	Restricted Funds	15,000,000
au.	Renovate Running Track	
	Restricted Funds	2,500,000
av.	Renovate Research Labs in Medical Center, I	
	Restricted Funds	750,000
aw.	Fit-up Research Labs - Allied Health Building	
	Restricted Funds	7,000,000
ax.	Renovate Research Labs in Medical Center, II	
	Restricted Funds	900,000
ay.	Renovate Research Space-Nursing Building	
	Restricted Funds	540,000
az.	Upgrade Communication Infrastructure, II	
	Restricted Funds	450,000
ba.	Renovate Research Space Medical Center, I	
	Restricted Funds	800,000
	Federal Funds	700,000
	TOTAL	1,500,000
bb.	Lease Purchase Campus Infrastructure Upgrade	
	Restricted Funds	3,500,000
bc.	Lease Purchase High Performance Research Computer	
	Restricted Funds	5,000,000
bd.	Lease Purchase Computing Facility Uninterruptable Power Supply	
	Restricted Funds	400,000
be.	Lease Purchase Large Scale Computing	
	Restricted Funds	3,500,000
bf.	Lease Purchase Networked Printer	
	Restricted Funds	200,000
bg.	Lease Purchase Pool	
	Restricted Funds	10,401,000
bh.	Lease Purchase Telephone Switch	
	Restricted Funds	3,000,000
bi.	Lease Purchase Video Switch	

	Restricted Funds	250,000	
bj.	3-D Scaling Device		
	Federal Funds		100,000
bk.	ABI Prism Sequence Detection System		
	Restricted Funds		100,000
bl.	Analytical Biosensor		
	Restricted Funds	275,000	
bm.	Area Detector Diffractometer		
	Restricted Funds	155,000	
	Federal Funds	155,000	
	TOTAL	310,000	
bn.	Automated DNA Sequencer		
	Restricted Funds	130,000	
bo.	Behavioral Monitoring & Analysis System		
	Restricted Funds	150,000	
bp.	Campus Call Auto Dial		
	Restricted Funds	125,000	
bq.	Capillary Genetic Analyzers		
	Restricted Funds	800,000	
br.	Chain Reaction Analyzer		
	Restricted Funds	150,000	
bs.	Chromatograph Mass Spectrometer, I		
	Restricted Funds	250,000	
bt.	Chromatograph Mass Spectrometer, II		
	Restricted Funds	258,000	
bu.	Combination Metabolic Analyzer		
	Restricted Funds	123,000	
bv.	Compressed Video-Hazard		
	Restricted Funds	141,000	
bw.	Confocal Microscope		
	Restricted Funds	325,000	
bx.	Confocal Microscope		
	Restricted Funds	200,000	
by.	Database Testbed		
	Restricted Funds	225,000	
bz.	Digital Router		
	Restricted Funds	100,000	
ca.	DNA Chip Analysis System		

	Restricted Funds	160,000
cb.	DNA Microarray Chip Reader	
	Federal Funds	450,000
cc.	DNA Microarray Facility	
	Restricted Funds	300,000
cd.	DNA Microarray System	
	Restricted Funds	285,000
ce.	DNA Sequencer	
	Restricted Funds	135,000
cf.	DNA Sequencer	
	Restricted Funds	125,000
cg.	DNA Sequencer, I	
	Restricted Funds	134,000
ch.	DNA Sequencer, II	
	Restricted Funds	158,000
ci.	DNA Sequencer/Genetic Analyzer	
	Restricted Funds	110,000
cj.	DNA Synthesizer	
	Restricted Funds	103,000
ck.	Electron Spin Resonance Instrument	
	Restricted Funds	100,000
	Federal Funds	100,000
	TOTAL	200,000
cl.	Electrophysiologic Analysis System	
	Restricted Funds	207,000
cm.	Encapsulator	
	Restricted Funds	151,000
cn.	Environmental Test System	
	Restricted Funds	125,000
co.	Epi-Fluorescence Microscope	
	Restricted Funds	134,000
cp.	ESCA-X-Ray Photoelectron Spectroscopy	
	Restricted Funds	400,000
cq.	Flow Cytometer	
	Restricted Funds	108,000
cr.	Flow Cytometry Lab Equipment	
	Restricted Funds	375,000
cs.	Fluorescent Microscope & Image Analyzer	

	Restricted Funds	150,000	
ct.	Fluorescent (Luminescent) Imaging System		
	Restricted Funds	105,000	
cu.	Fluorescence Activated Cell Sorter		
	Restricted Funds	200,000	
cv.	Fluorescent Analyzer		
	Restricted Funds	109,000	
cw.	Fluorescent Activated Cell Sorter		
	Restricted Funds	237,000	
cx.	Fluorescent Cell Sorter		
	Restricted Funds	200,000	
cy.	Forage Harvester System		
	Restricted Funds	150,000	
cz.	Freeze-Thaw Apparatus		
	Restricted Funds		100,000
da.	Garbage Truck Front Loader		
	Restricted Funds	165,000	
db.	Gas Analyzer		
	Restricted Funds	100,000	
dc.	Gas Chromatograph Mass Spectrometer		
	Restricted Funds		101,000
dd.	Gas Chromatograph/MSD		
	Restricted Funds	110,000	
de.	Gas Chromatograph Mass Spectrograph		
	Restricted Funds		186,000
df.	Gene Chip Analysis Machine		
	Restricted Funds		250,000
dg.	Gene Chip Instrument System		
	Restricted Funds	450,000	
dh.	Genetic Analyzer		
	Restricted Funds		140,000
di.	GIS Teaching Lab		
	Restricted Funds	160,000	
dj.	GVG Video Switch		
	Restricted Funds	250,000	
dk.	High Performance Liquid Chromatography		
	Restricted Funds	131,000	
dl.	High Power CO2 Laser		

	Restricted Funds	250,000
dm.	High Pressure Liquid Chromatograph	
	Restricted Funds	100,000
	Federal Funds	100,000
	TOTAL	200,000
dn.	High Resolution Optical Microscope	
	Restricted Funds	110,000
do.	High Resolution Phosphor Imager	
	Restricted Funds	206,000
dp.	High Temperature Optical Microscope	
	Restricted Funds	105,000
dq.	High-Speed Signal Processor	
	Federal Funds	150,000
dr.	Holographic System/Image Analyzer	
	Restricted Funds	110,000
ds.	HPLC Mass Spectrophotometer	
	Restricted Funds	220,000
dt.	Image Analysis System	
	Restricted Funds	206,000
du.	Image Analyzer System	
	Restricted Funds	206,000
dv.	Inductive Coupled Plasma Spectrometer	
	Restricted Funds	110,000
dw.	Inductive Coupled Plasma Unit	
	Restricted Funds	110,000
dx.	Inductive Coupled Spectrometer System	
	Restricted Funds	120,000
dy.	Interaction Analyzer	
	Restricted Funds	150,000
dz.	Inverted Microscope-Fluoroscope	
	Restricted Funds	155,000
ea.	Inverted Scope	
	Restricted Funds	100,000
eb.	Laser Confocal Microscope	
	Restricted Funds	312,000
ec.	Laser System	
	Restricted Funds	125,000
	Federal Funds	125,000

	TOTAL	250,000	
ed.	LCT Flight Mass Spectrometer		
	Restricted Funds	220,000	
ee.	LIMS Bioinformatics Equipment		
	Federal Funds		136,000
ef.	Liquid Chromatograph		
	Restricted Funds		105,000
eg.	Liquid Chromatograph-Mass Spectrometer		
	Restricted Funds		320,000
eh.	Liquid Filling/Stoppering Line		
	Restricted Funds	351,000	
ei.	Mass Spectrometer		
	Restricted Funds		400,000
ej.	MB Ultracentrifuge		
	Restricted Funds	354,000	
ek.	MB/GT Phospho-Imager		
	Restricted Funds	128,000	
el.	Multiphoton Imaging System		
	Restricted Funds	505,000	
em.	Multiphoton Scanning Microscope		
	Restricted Funds	300,000	
en.	Multiunit Microbial Chamber		
	Restricted Funds	250,000	
eo.	NIR Spectrophotometer		
	Restricted Funds	125,000	
ep.	Open MRI Unit		
	Restricted Funds		1,000,000
eq.	Optical Disk Server		
	Restricted Funds		180,000
er.	Patient Classification Equipment		
	Restricted Funds		260,000
es.	Physiology Workstation		
	Restricted Funds	101,000	
et.	Protein Synthesizer		
	Restricted Funds		206,000
eu.	Quadrapole Mass Spectrometer		
	Restricted Funds	360,000	
ev.	Rapid Scanning Monochrometer		

	Restricted Funds	130,000
ew.	Research Grade Light Microscope	
	Restricted Funds	103,000
ex.	Scanning Electron Microscope	
	Restricted Funds	175,000
ey.	Semi-solid Manufacturing Equipment	
	Restricted Funds	211,000
ez.	Sequence Detection System	
	Restricted Funds	100,000
fa.	Spectograph for Oligonucleotide Analysis	
	Restricted Funds	250,000
fb.	Studio Recording Equipment	
	Restricted Funds	113,000
fc.	Telemedicine Rural Health	
	Restricted Funds	416,000
fd.	Telemedicine Systems	
	Restricted Funds	600,000
fe.	Terminal Sterilizing Autoclave	
	Restricted Funds	221,000
ff.	Ultracentrifuge	
	Restricted Funds	117,000
fg.	Virtual Environment Simulator	
	Restricted Funds	125,000
fh.	X-Ray Defractometer	
	Federal Funds	700,000
fi.	Upgrade Scanner System	
	Restricted Funds	500,000
fj.	Upgrade HVAC II - Hospital	
	Restricted Funds	3,500,000
fk.	Renovate Roach Building 4th Floor - Hospital	
	Restricted Funds	3,990,000
fl.	Consolidate Imaging Services - Hospital	
	Restricted Funds	3,675,000
fm.	Construct Storage/Distribution Center - Hospital	
	Restricted Funds	1,019,000
fn.	Construct Limited-Stay Facility - Hospital	
	Restricted Funds	5,460,000
fo.	Renovate Kitchen I - Hospital	

	Restricted Funds	1,050,000	
fp.	Implement Land Use Plan III - Hospital		
	Restricted Funds	2,625,000	
fq.	Construct Parking Structure III - Hospital		
	Restricted Funds		7,350,000
fr.	Protect Environment II - Hospital		
	Restricted Funds	1,575,000	
fs.	Upgrade Transport Systems IV - Hospital		
	Restricted Funds	735,000	
ft.	Modify Nursing Unit XI - Hospital		
	Restricted Funds	1,100,000	
fu.	Modify Nursing Unit XII - Hospital		
	Restricted Funds		3,500,000
fv.	Upgrade Diagnostic Services XI - Hospital		
	Restricted Funds	1,500,000	
fw.	Construct Outpatient Services III - Hospital		
	Restricted Funds	4,700,000	
fx.	Upgrade Diagnostic Services XII - Hospital		
	Restricted Funds		1,000,000
fy.	Implement Land Use Plan IV - Hospital		
	Restricted Funds		2,500,000
fz.	Upgrade Transport Systems V - Hospital		
	Restricted Funds		800,000
ga.	Expand Data Systems III - Hospital		
	Restricted Funds	700,000	
gb.	Upgrade Support Services II - Hospital		
	Restricted Funds	1,172,000	
gc.	Upgrade Nutrition Services II - Hospital		
	Restricted Funds	1,000,000	
gd.	Upgrade Utility Systems VI - Hospital		
	Restricted Funds		1,500,000
ge.	Upgrade Building/Site IV - Hospital		
	Restricted Funds		800,000
gf.	Expand Parking II - Hospital		
	Restricted Funds	3,200,000	
gg.	Construct Patient Care Facility II - Hospital		
	Restricted Funds	7,638,000	
gh.	Construct Primary Care Center II - Hospital		

	Restricted Funds	10,172,000
gi.	Construct Building Connectors III - Hospital	
	Restricted Funds	3,000,000
gj.	Construct Outpatient Diagnostic/Treatment Facility II - Hospital	
	Restricted Funds	12,672,000
gk.	Construct Outpatient Care Facility II - Hospital	
	Restricted Funds	6,172,000
gl.	Upgrade Communication Services - Hospital	
	Restricted Funds	1,000,000
gm.	Construct Business Facility II - Hospital	
	Restricted Funds	9,000,000
gn.	Create Universal Nursing Unit - Hospital	
	Restricted Funds	1,000,000
go.	Design Patient Bed Tower - Hospital	
	Restricted Funds	10,000,000
gp.	Expand Surgical Services - Hospital	
	Restricted Funds	3,200,000
gq.	Accelerator	
	Restricted Funds	1,600,000
gr.	Angiography Unit	
	Restricted Funds	1,740,000
gs.	Angiography Unit	
	Restricted Funds	1,276,000
gt.	ATL Ultrasound	
	Restricted Funds	220,000
gu.	Biplane Angiography	
	Restricted Funds	1,160,000
gv.	Cardiac Catheterization Image Management System	
	Restricted Funds	957,000
gw.	Cardiac Ultrasound	
	Restricted Funds	1,600,000
gx.	C-Arm X-Ray Unit	
	Restricted Funds	350,000
gy.	C-Arm X-Ray Unit	
	Restricted Funds	440,000
gz.	C-Arm X-Ray Unit	
	Restricted Funds	275,000
ha.	Clinical System Enterprise	

	Restricted Funds	5,800,000
hb.	Computing Infrastructure Update	
	Restricted Funds	2,500,000
hc.	CR PAC Server	
	Restricted Funds	275,000
hd.	CT Scanner	
	Restricted Funds	1,914,000
he.	CT Scanners	
	Restricted Funds	3,480,000
hf.	CT Simulator	
	Restricted Funds	1,160,000
hg.	CT Simulator	
	Restricted Funds	1,200,000
hh.	Data Storage Facility	
	Restricted Funds	750,000
hi.	Diagnostic Radiology Unit	
	Restricted Funds	330,000
hj.	Digital Medical Record Expansion	
	Restricted Funds	4,640,000
hk.	Digital Enhancement	
	Restricted Funds	1,085,000
hl.	Digital Imaging	
	Restricted Funds	957,000
hm.	Digital Orbitor Camera	
	Restricted Funds	275,000
hn.	Digital Radiology	
	Restricted Funds	4,060,000
ho.	Digital Radiology	
	Restricted Funds	1,020,000
hp.	EKG Unit	
	Restricted Funds	400,000
hq.	EKG Unit	
	Restricted Funds	440,000
hr.	Electrophysiology Lab	
	Restricted Funds	5,800,000
hs.	EMG Unit	
	Restricted Funds	250,000
ht.	Endoscopic Ultrasound	

	Restricted Funds	440,000
hu.	Endoscopic Video System	
	Restricted Funds	300,000
hv.	Endoscopic Video Ultrasound	
	Restricted Funds	275,000
hw.	Filmless System	
	Restricted Funds	150,000
hx.	Fluoroscopy Unit	
	Restricted Funds	550,000
hy.	General Radiology/Fluoroscopic Unit	
	Restricted Funds	550,000
hz.	General Radiology/Fluoroscopic Unit	
	Restricted Funds	500,000
ia.	Intracardiac Laser	
	Restricted Funds	500,000
ib.	Intracardiac Laser	
	Restricted Funds	550,000
ic.	Intraoperative Radiation Therapy	
	Restricted Funds	1,300,000
id.	Laboratory Analyzer	
	Restricted Funds	500,000
ie.	Linear Accelerator	
	Restricted Funds	2,050,000
if.	Managed Care Enterprise	
	Restricted Funds	1,160,000
ig.	Minimally Invasive Room	
	Restricted Funds	1,700,000
ih.	Mobile CT	
	Restricted Funds	1,100,000
ii.	Mobile CT	
	Restricted Funds	1,000,000
ij.	Mobile Fluoroscopic Unit	
	Restricted Funds	250,000
ik.	Mobile Radiology Unit	
	Restricted Funds	250,000
il.	MRI Upgrade	
	Restricted Funds	500,000
im.	Nuclear Medicine Camera	

	Restricted Funds	1,000,000
in.	OB Ultrasound	
	Restricted Funds	350,000
io.	OR Perioperative IS Document Systems Upgrade	
	Restricted Funds	150,000
ip.	Patient System Enterprise	
	Restricted Funds	4,640,000
iq.	Portal Imaging System	
	Restricted Funds	200,000
ir.	Portal Imaging System	
	Restricted Funds	250,000
is.	QuadRIS Upgrade	
	Restricted Funds	300,000
it.	Rad. Med. Software/System	
	Restricted Funds	350,000
iu.	Radiation Therapy Unit Upgrade	
	Restricted Funds	400,000
iv.	Radiographic Fluoroscopic Unit	
	Restricted Funds	200,000
iw.	Radiographic Fluoroscopic Unit	
	Restricted Funds	150,000
ix.	Radiographic Unit	
	Restricted Funds	400,000
iy.	Radiographic Unit	
	Restricted Funds	350,000
iz.	Radiology Ultrasound	
	Restricted Funds	440,000
ja.	SPECT System	
	Restricted Funds	1,000,000
jb.	Steam Autoclave	
	Restricted Funds	450,000
jc.	Sterrad Sterilizer	
	Restricted Funds	450,000
jd.	Surgical C-Arm (ISS) System	
	Restricted Funds	650,000
je.	Surgical Laser	
	Restricted Funds	500,000
jf.	Surgical Microscope	

	Restricted Funds	500,000
jg.	Teleradiology	
	Restricted Funds	200,000
jh.	Ultrasound Image Management	
	Restricted Funds	800,000
ji.	Upgrade - HIS Computing Facility	
	Restricted Funds	2,900,000
jj.	Upgrade for Servers	
	Restricted Funds	800,000
jk.	Vascular Ultrasound	
	Restricted Funds	300,000
jl.	Vascular Ultrasound	
	Restricted Funds	900,000
jm.	Washer	
	Restricted Funds	350,000
jn.	Various Buildings	
	(Guaranteed Energy Savings Project)	
jo.	Center for Rural Health	
	Reauthorization (\$10,100,000 - Bond Funds)	
	Federal Funds - Additional	2,000,000
jp.	College of Medicine - Lease	
jq.	Medical Center Contract Sponsored Programs - Lease	
jr.	Medical Center Patient Facility - Lease	
js.	Medical Center Research Grants Projects - Lease	
jt.	Pharmacy Contracted Programs - Lease	
ju.	Center for Rural Health - Lease	
jv.	Kentucky Utilities Building - Lease	
jw.	Agricultural Plant Science Facility	
	Reauthorization	
	Restricted Funds - Additional	1,300,000
jx.	Business and Economic Complex	
	Restricted Funds	1,000,000
jy.	Student Housing Apartment Complex - Lease Purchase	
	Restricted Funds	13,000,000
jz.	Enterprise Resource Planning System - Lease Purchase	
	Restricted Funds	30,000,000
ka.	UK/UL/Frankfort Research Planning System - Lease-Purchase	
	Restricted Funds	6,000,000

kb.	University Housing - Lease	
	Restricted Funds	1,650,000
kc.	Center for Pharmaceutical and Science Technology	
	Restricted Funds	14,000,000
kd.	Student Housing Facility	
	Restricted Funds	46,000,000
9.	University of Louisville	
a.	Expand - Research Resources Center	
	Restricted Funds	2,596,000
	Other Funds	7,787,000
	TOTAL	10,383,000
b.	Property Acquisition	
	Restricted Funds	1,300,000
c.	Construct - Boathouse for Women's Rowing	
	Other Funds	2,488,000
d.	Field Turf - Practice Field Facility	
	Other Funds	750,000
e.	Expand-Oppenhimer Hall for Social Work	
	Other Funds	5,450,000
f.	Expand - Cardinal Arena in Student Activities Center	
	Other Funds	4,000,000
g.	Renovate - Dental Clinic and Sterilization	
	Other Funds	3,637,000
h.	Renovate - K-Wing 2nd and 4th Floors	
	Restricted Funds	1,040,000
i.	Expand - Ekstrom Library - New Wing	
	Federal Funds	14,000,000
j.	Construct - Residence Hall - 400 Beds, Phase I	
	Other Funds	19,718,000
k.	Parking Spaces - Health Sciences	
	Restricted Funds	825,000
l.	Renovate - MDR Building, Phase IV	
	Restricted Funds	2,530,000
m.	Renovate - Stoddard Johnston - Married Students	
	Other Funds	5,829,000
n.	Plasmon Resonance Instrument	
	Restricted Funds	250,000
o.	High Resolution Mass Spectrometer	

	Federal Funds	1,150,000
p.	Flow Fluorescence Activated Cell	
	Restricted Funds	130,000
q.	Microcalorimeter	
	Restricted Funds	140,000
r.	Confocal Microscope	
	Restricted Funds	280,000
s.	Neuro Scan ESI - 128:128 Channel	
	Restricted Funds	100,000
	Federal Funds	40,000
	TOTAL	140,000
t.	Laser Microfabrication Lab	
	Restricted Funds	275,000
	Federal Funds	250,000
	TOTAL	525,000
u.	X-Ray Diffraction Module	
	Restricted Funds	500,000
	Federal Funds	250,000
	TOTAL	750,000
v.	Particle Imaging Velocimetry (PIV)	
	Restricted Funds	167,000
w.	Confocal Laser Scanning Microscope	
	Restricted Funds	400,000
x.	CNC Grinding Machine	
	Restricted Funds	164,000
y.	Load Application System	
	Restricted Funds	240,000
z.	Axis (5) CNC Machining	
	Restricted Funds	150,000
aa.	Color Digital Output Engine	
	Restricted Funds	700,000
ab.	High Volume Output Devices Duplicator	
	Restricted Funds	876,000
ac.	High Speed Graphics Imaging System	
	Restricted Funds	200,000
ad.	Digital Communication Network	
	Restricted Funds	2,000,000
ae.	Network Switching System	

	Restricted Funds	2,000,000
af.	Electronic Research Information System	
	Restricted Funds	2,000,000
ag.	Computer Workstations for Libraries	
	Restricted Funds	466,000
ah.	High Availability Enterprise System	
	Restricted Funds	1,430,000
ai.	Client Server System - File Server	
	Restricted Funds	1,100,000
aj.	Computer Processing System	
	Restricted Funds	2,000,000
ak.	Engineering Scientific Processor	
	Restricted Funds	1,100,000
al.	Supercomputing System	
	Restricted Funds	1,500,000
am.	Upgrade Supercomputer	
	Restricted Funds	400,000
an.	Autonomous Mobility Platform	
	Restricted Funds	400,000
	Federal Funds	60,000
	TOTAL	460,000
ao.	Concave Reality Unit	
	Restricted Funds	250,000
ap.	High Energy Physics Data Analysis	
	Restricted Funds	175,000
	Federal Funds	175,000
	TOTAL	350,000
aq.	Gel Blot Image Analysis System	
	Restricted Funds	145,000
ar.	High Resolution Hybrid Mass Spectrometer	
	Restricted Funds	500,000
	Federal Funds	100,000
	TOTAL	600,000
as.	Digital Micro-Luminography System	
	Restricted Funds	120,000
at.	Electronic Darkroom	
	Restricted Funds	193,000
au.	Laser Desorption/Ionization Mass Spectrometer	

	Restricted Funds	200,000
av.	Molecular Tagging Velocimetry	
	Restricted Funds	245,000
aw.	Peak 3D Equipment	
	Restricted Funds	120,000
ax.	Deposition Attachment - UHV Facility	
	Restricted Funds	500,000
ay.	Electric Injection Molding Machine	
	Restricted Funds	110,000
az.	Materials Testing System	
	Restricted Funds	218,000
ba.	Specialized Central Processing Unit	
	Restricted Funds	500,000
bb.	Protein Chip Analyzer	
	Restricted Funds	200,000
bc.	Nucleic Acid Microchip Analyzer	
	Restricted Funds	200,000
bd.	Analytical Ultracentrifuge	
	Restricted Funds	145,000
be.	High Resolution SEM	
	Restricted Funds	360,000
bf.	Intermediate Voltage Transmission Electronmicroscope	
	Restricted Funds	550,000
bg.	Micro-Computed Tomography Imager	
	Restricted Funds	480,000
bh.	Automated Synthesizer	
	Restricted Funds	95,000
	Federal Funds	95,000
	TOTAL	190,000
bi.	EPR Spectrometer Update	
	Restricted Funds	60,000
	Federal Funds	65,000
	TOTAL	125,000
bj.	Virtual Reality Display System	
	Restricted Funds	90,000
	Federal Funds	90,000
	TOTAL	180,000

bk.	Various Buildings	
	(Guaranteed Energy Savings Project)	
bl.	Cardinal Park - Natatorium	
	Restricted Funds	7,335,000
	Other Funds	12,489,000
	TOTAL	19,824,000
bm.	Expand HSC Parking Garage - Two Additional Floors	
	Restricted Funds	4,794,000
bn.	Baseball Stadium	
	Other Funds	5,900,000
bo.	Cardinals' Nest - Housing	
	Other Funds	6,500,000
bp.	Land Purchase and Construction of Floyd Street Parking Lot	
	Other Funds	2,290,000
bq.	UL and UK Fiber Optics Purchase	
	Restricted Funds	4,650,000
br.	Biomedical Research Building - Phase III Planning	
	Restricted Funds	4,835,100
bs.	Cardiovascular Innovation Institute	
	Restricted Funds	20,000,000
	Federal Funds	1,500,000
	TOTAL	21,500,000
10.	Western Kentucky University	
a.	Various Buildings	
	(Guaranteed Energy Savings Project)	
b.	Capital Renewal and Deferred Maintenance Pool	
	Restricted Funds	10,000,000
c.	Electrical Distribution Phase IV and V Renovation	
	Restricted Funds	4,284,000
d.	Digital Television Transmission System	
	Restricted Funds	1,993,000
	Federal Funds	1,328,000
	TOTAL	3,321,000
e.	Renovate/Construct Telephone Infrastructure	
	Restricted Funds	3,000,000
f.	Van Meter Hall Renovation - Design	
	Restricted Funds	688,000
g.	Central Heat Plant Renovation - Phase I	

	Restricted Funds	1,273,000
h.	Garrett Conference Center Renovation - Design	
	Restricted Funds	858,000
i.	Server	
	Restricted Funds	880,000
j.	Video Server	
	Restricted Funds	800,000
k.	Downing University Center Renovation	
	Restricted Funds	7,000,000
l.	Land Acquisition	
	Restricted Funds	400,000
m.	Materials Characterization Center	
	Restricted Funds	3,000,000
n.	Student Parking Structure	
	Restricted Funds	10,000,000
11.	Kentucky Community and Technical College System	
a.	KCTCS System Office - Lease-Purchase with the City of Versailles	
b.	Capital Renewal and Deferred Maintenance Pool	
	Restricted Funds	13,444,000
c.	Upgrade for ADA/Fire Safety - Somerset Community College	
	Restricted Funds	4,585,000
d.	Master Plan Development and Upgrade Pool	
	Restricted Funds	650,000
e.	HVAC System Renovation - Daviess Co. Campus	
	Restricted Funds	2,440,000
f.	Install FiberOptics, Allied Health Building	
	Restricted Funds	558,000
g.	Campus HVAC System Renovation - Somerset Community College	
	Restricted Funds	2,173,000
h.	Replace HVAC System, 77 Addit, Laurel TC	
	Restricted Funds	1,280,000
i.	Enclose Courtyard/Roof - Falkenstine Hall	
	Restricted Funds	1,359,000
j.	Computer Interfaced Distillation Column	
	Restricted Funds	114,000
k.	Helicopter for Aircraft Tech Program - JTC	
	Restricted Funds	271,000

- l. New Telephone System Owensboro - CC & TC
 - Restricted Funds 340,000
- m. Multi-engine Turbine Power Aircraft
 - Restricted Funds 300,000
- n. Diagnostic Medical Sonography Unit
 - Restricted Funds 110,000
- o. Various Buildings
 - (Guaranteed Energy Savings Project)
- p. Henderson Community College - Lease
- q. Jefferson Community College - Lease

M. PUBLIC PROTECTION AND REGULATION CABINET

Budget Unit	2002-03	2003-04
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- 1. Housing, Buildings and Construction
 - a. Franklin County - Lease
- 2. Department of Insurance
 - a. Franklin County - Lease
- 3. Public Advocacy
 - a. Franklin County - Lease

N. REVENUE

Budget Unit	2002-03	2003-04
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- 1. Office of the Secretary
 - a. Franklin County - Lease
 - b. Franklin County - Lease
 - c. Franklin County - Lease

O. TOURISM DEVELOPMENT CABINET

Budget Unit	2002-03	2003-04
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The total non-General Fund project costs shown do not reflect additions to the operating budget appropriations.

- 1. Department of Parks
 - a. Improve Water System - Natural Bridge
 - Emergency Repair, Maintenance,
and Replacement Fund 500,000
 - b. Maintenance Pool
 - Investment Income 3,438,400 3,435,700
 - c. Campground Electrical/Life Safety Upgrade and Reconstruction
 - Investment Income 2,100,000
 - d. Construct Wave Barrier - Jenny Wiley
 - Reauthorization

e.	Kincaid Lake Golf Course		
	Reauthorization		
f.	Ben Hawes State Park Project/Various Improvements		
	Reauthorization and Reallocation		
2.	Kentucky Horse Park		
a.	Maintenance Pool		
	Investment Income	441,400	441,400
b.	Painting, Fencing, and Infrastructure Repair		
	Investment Income	225,000	
c.	Design and Infrastructure of a New Indoor Arena and Campground Expansion		
	General Fund		400,000
3.	Kentucky State Fair Board		
a.	Purchase DOT Building		
	Bond Funds	500,000	
b.	Replace Roofs		
	Bond Funds	2,800,000	
c.	Maintenance Pool		
	Restricted Funds	1,500,000	1,500,000
d.	Teleconference Center - KICC		
	Reauthorization and Reallocation (250,000 - Restricted Funds)		

The above Restricted Funds, as appropriated in accordance with 2000 Ky. Acts ch. 549, Part II, O. Tourism Development Cabinet, 2. Kentucky State Fair Board, c. Freedom Hall-Portable Trailers, are reauthorized and reallocated to provide for the completion of the Kentucky International Convention Center Teleconferencing Center.

4.	Department of Fish and Wildlife Resources		
a.	Land Acquisition Pool		
	Restricted Funds	500,000	500,000
b.	Maintenance Pool		
	Restricted Funds	300,000	300,000

P. TRANSPORTATION CABINET

Budget Unit	2002-03	2003-04
1.	Highways	
a.	TRNSPRT System	
	Road Fund	3,500,000
b.	Statewide Transportation Operations Center	
	Federal Funds	5,680,000
	Road Fund	1,420,000
	TOTAL	7,100,000
2.	General Administration and Support	

a.	Construct Martin County Maintenance Facility and Salt Dome		
	Road Fund		845,000
b.	Replace HVAC System - Franklin County Materials Lab		
	Road Fund		600,000
c.	Construct and Repair Various Salt Storage Structures		
	Road Fund		813,000
d.	Asbestos Survey/Abatement/Air Monitoring		
	Road Fund		100,000
e.	Building Renovation and Emergency Repairs		
	Road Fund	840,000	
f.	Conduct Paving and Landscaping		
	Road Fund		600,000
g.	Wastewater Treatment/Water Projects		
	Road Fund		200,000
h.	HVAC Maintenance and Repair		
	Road Fund		800,000
i.	Hydraulic Hoists-Heavy Equipment		
	Road Fund		300,000
j.	Purchase of High Speed Duplicators (Two)		
	Road Fund		600,000
k.	Purchase Electrical Digital Surveying System		
	Road Fund		150,000
l.	Purchase Concrete and Geotech Testing System		
	Road Fund		146,000
m.	Purchase of Core Drill		
	Road Fund		210,000
n.	Various Parks Roads		
	Road Fund	1,500,000	1,500,000

Q. WORKFORCE DEVELOPMENT CABINET

Budget Unit	2002-03	2003-04
1.	General Administration and Program Support	
a.	Implement Guaranteed Energy Savings (Guaranteed Energy Performance Contract)	
b.	Implement ADA Barrier Removal Pool	
	Investment Income	125,000
c.	Maintenance Pool	
	Investment Income	395,000
2.	Vocational Rehabilitation	394,600

- a. Construct New Sewage Treatment Plant-Perkins Rehabilitation Center
- | | |
|------------|---------|
| Bond Funds | 265,000 |
|------------|---------|

- b. Franklin County - Lease

- c. Fayette County - Lease

3. Employment Services

- a. DES Facility Renovation Pool

Reauthorization

The General Assembly authorizes the Department to develop and implement a facility replacement and renovation program to improve the quality of Workforce Development Cabinet facilities used by the Department and its clients, and to reduce departmental reliance on lease/rental properties. The Department is directed to coordinate this program with the Secretary of the Finance and Administration Cabinet. Proceeds acquired from the sale, transfer, or other disposition of existing facilities may be expended toward the purchase, construction, renovation, and equipping and furnishing of replacement facilities. Expenditures authorized by this provision are limited to the use of funds solely derived from the sale of Cabinet-owned facilities, which equity rights are shared between both the state and the federal government. Any project estimated to cost over \$400,000 shall be reported to the Capital Projects and Bond Oversight Committee by the Secretary of the Finance and Administration Cabinet.

R. COAL SEVERANCE TAX PROJECTS

Notwithstanding KRS 42.4588(2) and (4), the following projects are authorized and appropriated from Local Government Economic Development Fund moneys from the respective single county fund pursuant to KRS 42.4592 or General Fund supported Bond Funds for public purposes in the following coal-producing counties in the manner and amounts enumerated. These projects are determined by the General Assembly to be important to the furtherance of the public policy objectives and economic development purposes for which the Local Government Economic Development Program was established. The amounts appropriated are estimates. Actual expenditures and encumbrances shall be limited to the actual receipts realized and available in the respective single county fund. These amounts are comprised of estimated receipts for fiscal year 2002-2003 and fiscal year 2003-2004 in combination with prior unobligated balances in the respective single county funds. To the extent that a county that is authorized to proceed with a project enumerated below receives more single county Local Government Economic Development Fund moneys than are appropriated in this Act, the county may direct those funds to offset a cost overrun on any of the projects enumerated below upon approval of the Commissioner of the Coal County Development Office.

Notwithstanding KRS 42.4592, funds from each single county fund that equals the amount of Bond Funds for the respective county shall be deposited to the General Fund in fiscal year 2003-2004. The Coal Severance Tax Projects Bonds shall not be issued prior to September 1, 2003. The Bond Funds totaling \$10,663,480 are supported with General Fund debt service of \$986,000 which is included in the Department for Local Government Debt Service appropriation.

(1) GOVERNMENT OPERATIONS

- | | | |
|---------------------------------|---------|---------|
| a. Budget Unit Local Government | 2002-03 | 2003-04 |
|---------------------------------|---------|---------|

Bell County

- | | | | |
|----|---|--------|--------|
| 1. | Bell County Animal Shelter - Improvements | | |
| | Restricted Funds | 5,000 | |
| 2. | Bell County Fiscal Court - Ambulance and Equipment | | |
| | Restricted Funds | 75,000 | |
| 3. | Bell County Fiscal Court - Bell County 4-H Club - Operations | | |
| | Restricted Funds | | 1,000 |
| 4. | Bell County Fiscal Court - City of Middlesboro - Equipment and Projects | | |
| | Restricted Funds | | 85,000 |
| 5. | Bell County Fiscal Court - City of Pineville - Equipment and Projects | | |

	Restricted Funds		30,000
6.	Bell County Fiscal Court - Equipment and Projects		
	Restricted Funds		600,000
7.	Bell County Fiscal Court - Frakes Senior Citizens - Operations		
	Restricted Funds		5,000
8.	Bell County Fiscal Court - Frakes Volunteer Fire Department Equipment and Operations		
	Restricted Funds		6,250
9.	Bell County Fiscal Court - Little League - Improvements		
	Restricted Funds	25,000	5,000
10.	Bell County Fiscal Court - Middlesboro Airport - Operations		
	Restricted Funds	50,000	
11.	Bell County Fiscal Court - Middlesboro Fire Department - equipment		
	Restricted Funds		15,000
12.	Bell County Fiscal Court - Middlesboro Rescue Squad - Equipment and Operations		
	Restricted Funds	12,500	6,250
13.	Bell County Fiscal Court - Pineville Fire Department - Equipment		
	Restricted Funds		5,000
14.	Bell County Fiscal Court - Red Bird Senior Citizens - Operations		
	Restricted Funds		2,500
15.	Bell County Fiscal Court - Senior Citizens - Operations		
	Restricted Funds	25,000	7,500
16.	Bell County Fiscal Court - Water Project - Wx2101 3907 Earmarked		
	Restricted Funds	222,000	
17.	Bell County Fiscal Court- Interfaith Operations		
	Restricted Funds	5,000	
18.	Bell County Fiscal Court- Middlesboro History Museum - Operations		
	Restricted Funds	7,500	5,000
19.	Bell County Fiscal Court- Middlesboro Little League/Senior League - T-ball Improvements		
	Restricted Funds	12,500	
20.	Bell County Fiscal Court- P-38 Museum at Middlesboro - Operations		
	Restricted Funds	150,000	
21.	Bell County Fiscal Court- Pineville School - Divided Evenly Among Each Site Based Council		
	Restricted Funds	25,000	
22.	Bell County Fiscal Court- Senior Citizens Ctr - For Their Share of Pineville City School Wellness Center		
	Restricted Funds	50,000	
23.	Bell County Health Department - Operations		
	Restricted Funds	5,000	

24.	Bell County Jail - Repairs		
	Restricted Funds	50,000	
25.	Bell County Public Library - Operations		
	Restricted Funds	5,000	
26.	Bell County Veterans Park - Improvements		
	Restricted Funds	5,000	
27.	Bell County Volunteer Fire Department		
	Restricted Funds	25,000	
28.	Bell County Volunteer Fire Department - Generator at Central		
	Restricted Funds	25,000	
29.	Bell County Volunteer Fire Department - Lone Jack Co. for Repairs		
	Restricted Funds	25,000	
30.	City of Middlesboro - Various Projects		
	Restricted Funds	200,000	
31.	City of Pineville - Various Projects		
	Restricted Funds	75,000	
32.	Frakes Volunteer Fire Department - Operations		
	Restricted Funds	12,500	
33.	Middlesboro City Schools - Divided Evenly Among Each Site Based Council		
	Restricted Funds	25,000	

Boyd County

34.	Ashland Independent Board of Education - Ashland Independent School Facility Improvements		
	Restricted Funds	9,000	10,000
35.	Boyd County Board of Education – Boyd County Schools Facility Improvements		
	Restricted Funds	9,000	10,000
36.	Boyd County Board of Education – Cannonsburg Elementary Playground Equipment and Improvements		
	Restricted Funds	10,000	
37.	Boyd County Fiscal Court – AABC Baseball Equipment and Facility Improvements		
	Restricted Funds	10,000	
38.	Boyd County Fiscal Court – Boyd County Fair Operations and Improvements		
	Restricted Funds	10,000	10,000
39.	Boyd County Fiscal Court – Catlettsburg Senior Center Vehicle Enhancements		
	Restricted Funds	1,000	
40.	Boyd County Fiscal Court – Community Hospice - Construction and Improvements		
	Restricted Funds	20,000	30,000
41.	Boyd County Fiscal Court – Durbin Community Outreach		
	Restricted Funds		1,800
42.	Boyd County Fiscal Court – Hopes Place Operations, Materials, Equipment and Improvements		

	Restricted Funds	11,000	
43.	Boyd County Fiscal Court – National Little League – Equipment and Facility Improvements		
	Restricted Funds	10,000	
44.	Boyd County Fiscal Court – Optimist Softball and Soccer – Equipment, Facility, and Grounds Improvements		
	Restricted Funds	10,000	
45.	Boyd County Fiscal Court – Safe Harbor Operations, Materials, Equipment and Improvements		
	Restricted Funds	11,000	
46.	Boyd County Fiscal Court – Volunteer Fire Departments - to be shared equally		
	Restricted Funds		30,000
47.	City of Ashland – Ashland American Little League – Facility Improvement and Acquisitions		
	Restricted Funds	10,000	
48.	City of Ashland – Summer Motion Operations and Improvements		
	Restricted Funds	10,000	10,000
49.	City of Catlettsburg - Downtown Development		
	Restricted Funds	13,500	
50.	Fairview Independent Board of Education – Fairview Independent Schools Facility Improvement		
	Restricted Funds	9,000	10,000
Breathitt County			
51.	Breathitt County School Board - Breathitt County High School Athletic Fields and Field House		
	Restricted Funds	250,000	
52.	Breathitt County Water District - Water Line Extensions		
	Restricted Funds	297,500	
53.	Breathitt County Water District - Water Line Extensions		
	Restricted Funds		781,804
54.	City of Jackson - Water Treatment Plant Expansions		
	Restricted Funds	397,500	
Butler County			
55.	Butler County Fiscal Court - GPS/GIS Mapping for 911 System and Emergency Generator		
	Restricted Funds	114,000	10,000
56.	Butler County Fiscal Court - Repeater System for Fire, Ambulance, Sheriff, and EMS Response		
	Restricted Funds	15,000	
57.	Butler County Fiscal Court - Various Projects		
	Restricted Funds		10,000
Carter County			
58.	Carter County Fiscal Court Recreational/Park - Feasibility, Planning, Property Acquisition, or Improvements		
	Restricted Funds	33,916	

59.	Carter County Fiscal Court- Fire Departments		
	Restricted Funds		60,000
60.	Carter County Fiscal Court- Mt. Savage Furnace Historic Marker Replacement		
	Restricted Funds	1,600	
61.	Grayson Utility Commission - Water Treatment Plant		
	Restricted Funds		107,018
Christian County			
62.	Christian County Fiscal Court - Trail of Tears		
	Restricted Funds	22,000	
63.	Christian County Fiscal Court - Visitors Center		
	Restricted Funds	18,000	
64.	Christian County Water District		
	Restricted Funds		150,000
Clay County			
65.	Clay County Fiscal Court - Purchase Vehicles for Sheriff and Jailer		
	Restricted Funds	75,000	
66.	Clay County Fiscal Court- Administrative Office Construction		
	Restricted Funds		1,008,700
Daviess County			
67.	Daviess County Fiscal Court - Fire Station		
	Restricted Funds	240,000	
68.	Daviess County Fiscal Court- H. L. Neblett Center Capital Project		
	Restricted Funds	150,000	116,000
Elliott County			
69.	City of Sandy Hook-Downtown Beautification, Parks, Festival Operations, and Street Repairs		
	Restricted Funds	12,000	9,000
70.	Elliott County Board of Education-Athletic Dept. - Equipment, Operations, and Improvements		
	Restricted Funds	10,000	10,000
71.	Elliott County Fiscal Court - County Public Library - Operations and Equipment Improvements.		
	Restricted Funds	25,000	25,000
72.	Elliott County Fiscal Court - Elliott County Ambulance Dept. - Equipment, Improvements, and Operations.		
	Restricted Funds	20,000	25,000
73.	Elliott County Fiscal Court - Elliott County Fire Department Construction, Equipment, and Operations		
	Restricted Funds	40,000	35,000
74.	Elliott County Fiscal Court-Various Economic Development, Recreation, Parks, County Building Operations and Ground Improvements		
	Restricted Funds	30,000	40,000
Floyd County			

75.	Floyd County Fiscal Court - Allen Central	
	Restricted Funds	50,000
76.	Floyd County Fiscal Court - Betsy Layne	
	Restricted Funds	50,000
77.	Floyd County Fiscal Court - City of Prestonsburg Mountain Top Recreational Areas	
	Restricted Funds	500,000
78.	Floyd County Fiscal Court - Courthouse Renovations	
	Restricted Funds	162,500
79.	Floyd County Fiscal Court - Fire Hydrants	
	Restricted Funds	40,000
80.	Floyd County Fiscal Court - Fire Protection	
	Restricted Funds	100,000
81.	Floyd County Fiscal Court - Landfill	
	Restricted Funds	125,000
82.	Floyd County Fiscal Court - Martin City Flood Control	
	Restricted Funds	20,000
83.	Floyd County Fiscal Court - Martin Community Center - operations	
	Restricted Funds	25,000
84.	Floyd County Fiscal Court - Prestonsburg Field House	
	Restricted Funds	200,000
85.	Floyd County Fiscal Court - Service Project - Elkhorn Recreational and Educational Park	
	Restricted Funds	40,000
86.	Floyd County Fiscal Court - South Floyd	
	Restricted Funds	50,000
87.	Floyd County Fiscal Court - Parks Improvements	
	Restricted Funds	150,000
88.	Floyd County Fiscal Court - Senior Citizens Center - To be divided equally among the following seven centers - Wheelwright, Martin, McDowell, Betsy Layne, Mud Creek, Prestonsburg, and Wayland	
	Restricted Funds	112,000
89.	Southern Water and Sewer District - Water Line Extensions	
	Restricted Funds	50,000
90.	Southern Water and Sewer District - Water Line Extensions at Beaver Creek - Water Bond Payoff	
	Restricted Funds	491,419
Greenup County		
91.	Argillite Elementary School, Equipment	
	Restricted Funds	2,000
92.	Campbell Elementary School, Equipment	
	Restricted Funds	2,000

93.	City of Flatwoods - Senior Citizens Center	
	Restricted Funds	8,000
94.	Greenup County Fiscal Court - City of Greenup, Sidewalks	
	Restricted Funds	5,000
95.	Greenup County Fiscal Court - City of Raceland	
	Restricted Funds	5,000
96.	Greenup County Fiscal Court - City of Russell, Sewer and Storm Drains	
	Restricted Funds	5,000
97.	Greenup County Fiscal Court - City of South Shore, Park Improvements	
	Restricted Funds	5,000
98.	Greenup County Fiscal Court - City of Worthington	
	Restricted Funds	5,000
99.	Greenup County Fiscal Court - City of Wurtland	
	Restricted Funds	5,000
100.	Greenup County Fiscal Court – Fire Departments	
	Restricted Funds	29,000
101.	Greenup County Fiscal Court - Flatwoods City Park	
	Restricted Funds	5,000
102.	Greenup County Fiscal Court - Fraternal Order of Police	
	Restricted Funds	500
103.	Greenup County Fiscal Court - Greenup County Fairgrounds / Park Board	
	Restricted Funds	10,000
104.	Greenup County Fiscal Court - Greenup County Little League Ballfield	
	Restricted Funds	1,000
105.	Greenup County Fiscal Court - Greenup County Tourism Committee Multiple Welcome Signs	
	Restricted Funds	7,000
106.	Greenup County Fiscal Court - Greenup County War Memorial	
	Restricted Funds	5,000
107.	Greenup County Fiscal Court - Greenup Fairgrounds Ballfield	
	Restricted Funds	1,000
108.	Greenup County Fiscal Court - Helping Hands	
	Restricted Funds	1,000
109.	Greenup County Fiscal Court - Our Lady of Bellefonte Hospital, Mobile Health Clinic	
	Restricted Funds	5,000
110.	Greenup County Fiscal Court - Russell-Flatwoods Little League Ballfield	
	Restricted Funds	1,000
111.	Greenup County Fiscal Court - Russell-Flatwoods Women's Softball Field	
	Restricted Funds	1,000

112.	Greenup County Fiscal Court - South Shore, Stan Spence Little League Ballfield		
	Restricted Funds		1,000
113.	Greenup County Fiscal Court - Worthington Little League Ballfield		
	Restricted Funds		1,000
114.	Greenup County Fiscal Court - Blacktop		
	Restricted Funds	20,000	
115.	Greenup County Fiscal Court - Fire Departments		
	Restricted Funds	24,777	30,000
116.	Greenup County High School, Running Track and Fields		
	Restricted Funds		8,466
117.	Greysbranch Elementary School, Playground		
	Restricted Funds		2,000
118.	McDowell Intermediate School, Equipment		
	Restricted Funds		2,000
119.	McKell Elementary School, Computers and Printers		
	Restricted Funds		2,000
120.	McKell Intermediate School, Computer Equipment		
	Restricted Funds		2,000
121.	McKell Middle School, Library and Other Supplies		
	Restricted Funds		2,000
122.	Raceland-Worthington High School, Equipment		
	Restricted Funds		8,466
123.	Russell High School		
	Restricted Funds		8,466
124.	Russell Middle School, Equipment		
	Restricted Funds		2,000
125.	Russell Primary School, Equipment		
	Restricted Funds		2,000
126.	Worthington Elementary School, Equipment		
	Restricted Funds		2,000
127.	Wurtland Elementary School, Equipment		
	Restricted Funds		2,000
128.	Wurtland Middle School, Supplies and Equipment		
	Restricted Funds		2,000

Harlan County

129. Harlan County Fiscal Court- \$7,500 for equipment to each of the following Volunteer Fire Departments - Holmes Mill, Yocum Creek, Lower Clover Fork, Bledsoe, Putney, Wallins, Coldiron, Sunshine, Martins Fork, Evarts, Loyall, Upper Cloverfork, and Benham

	Restricted Funds	91,000
130.	Black Mountain Utility District - Putney - Totz/Water Line Extension	
	Bond Funds	1,250,000
131.	Black Mountain Utility District - Water Line Extension to Molus/Treatment Plant	
	Bond Funds	250,000
132.	City of Benham - Purchase of Equipment for Water/Sewer Service and Fire Protection	
	Restricted Funds	20,000
133.	City of Cumberland – Purchase or construction of a tourism center and welcome information center for Appalachian Frontier Homestead	
	Restricted Funds	25,000
134.	City of Harlan – Downtown Revitalization Program and/or improvements	
	Restricted Funds	100,000
135.	City of Harlan – Fire Station South	
	Restricted Funds	100,000
136.	City of Harlan – Little League	
	Restricted Funds	5,000
137.	City of Harlan - Water Treatment Plant	
	Bond Funds	500,000
138.	City of Loyall - Equipment and Repair for Fire, Police, and Sewer Departments	
	Restricted Funds	74,200
139.	City of Wallins Creek - City Equipment Purchase	
	Restricted Funds	20,000
140.	Cranks Volunteer Fire Department - Start-up Expenses	
	Restricted Funds	14,000
141.	Harlan County Fiscal Court – ARH Substance Abuse Detox Program	
	Restricted Funds	100,000
142.	Harlan County Fiscal Court – Bledsoe Community Center Construction of Building	
	Restricted Funds	20,000
143.	Harlan County Fiscal Court – Cawood Ledford Harlan County Boys and Girls Club	
	Restricted Funds	250,000
144.	Harlan County Fiscal Court - Cloverfork Rescue Squad, Building Construction	
	Restricted Funds	50,000
145.	Harlan County Fiscal Court – County Clerk’s Office – Electronic Document System	
	Restricted Funds	150,000
146.	Harlan County Fiscal Court - East Kentucky Corporation	
	Restricted Funds	100,000
147.	Harlan County Fiscal Court - Evarts Train Depot, Renovation of Building	
	Restricted Funds	50,000
148.	Harlan County Fiscal Court – Harlan and Tri-County Rescue Squads to be divided equally	

	Restricted Funds	10,000
149.	Harlan County Fiscal Court - Harlan County Tri-Cities Coordination for Community Development	
	Restricted Funds	35,000
150.	Harlan County Fiscal Court – Joshua’s Dream Foundation- Long-term Drug Rehab Center	
	Restricted Funds	21,527
151.	Harlan County Fiscal Court – Pathfork Community Park	
	Restricted Funds	5,000
152.	Harlan County Fiscal Court – Smith Park, Smith Kentucky – New Program Development and Repair	
	Restricted Funds	5,000
153.	Harlan County Fiscal Court – Southeast Community College Paramedic Training	
	Restricted Funds	50,000
154.	Harlan County Fiscal Court – The Laurels, Inc. – Renovation	
	Restricted Funds	40,000
155.	Harlan County Fiscal Court – Water Line Extension for Ages	
	Restricted Funds	400,000
156.	Harlan County Fiscal Court – Water Line Extension for Clover Lick	
	Restricted Funds	300,000
157.	Harlan County Fiscal Court – Water Line Extension Highway 38 to State Line	
	Restricted Funds	250,000
158.	Harlan County PVA - Digital/Mapping	
	Restricted Funds	35,000
159.	Southeast Community College Foundation - Mine Museum, Golf Course, and Mine Tour	
	Restricted Funds	250,000
160.	Southeast Community College Foundation - Underground Mine Tour	
	Restricted Funds	500,000
Henderson County		
161.	Henderson County Fiscal Court - Highway 60 E Water Line Extensions or Replacements	
	Restricted Funds	142,785
162.	Henderson County Fiscal Court - McDonald Landing Road Water Line Extensions or Replacements	
	Restricted Funds	217,215
163.	Henderson County Water District - Fulton-Yates/Mt. Zion Church Road Loop Water Line	
	Restricted Funds	125,000
164.	Henderson County Water District - Posey-Ball Road Water Line	
	Restricted Funds	121,381
165.	Henderson County Water District - Tank Repair	
	Restricted Funds	350,000
166.	Henderson County Water District - Various Extensions	
	Restricted Funds	230,000

167. Henderson County Water District - Water Line Extension to Kings Mill Road, Birk City Road, and Green River Road

Restricted Funds 83,655

168. Henderson Water Utility - Interconnection with Evansville Water

Restricted Funds 100,000

Hopkins County

169. Hopkins County Fiscal Court- Volunteer Fire Departments - (\$10,000 each to Anton, Charleston, Dawson Springs, Earlington, Grapevine, Hanson, Manitou, Mortons Gap, Nebo, Nortonville, Richland, St. Charles, South Hopkins, and White Plains for Fire Equipment)

Restricted Funds 140,000

170. Hopkins County Fiscal Court - Economic Development - Spec Building

Restricted Funds 400,000

171. Hopkins County Fiscal Court - Economic Development Projects

Restricted Funds 900,000

172. Hopkins County Fiscal Court - Water Projects

Restricted Funds 630,000

173. Hopkins County Fiscal Court- Adult Education Initiative

Restricted Funds 100,000 100,000

174. Hopkins County Fiscal Court- Land Acquisition -Economic Development

Restricted Funds 1,000,000 500,000

Jackson County

175. Jackson County Fiscal Court - Buncomb Road Water Line

Restricted Funds 108,100

176. Jackson County Water Association - Water Supply Lake

Restricted Funds 88,256

177. Jackson County Water Association - Water Supply Lake

Restricted Funds 62,000

Johnson County

178. Johnson County Fiscal Court - Fire Departments

Restricted Funds 35,000 35,000

179. Paintsville Utility Commission - New Water Treatment Plant

Restricted Funds 20,757

Knott County

180. Kentucky School of Craft - KCTCS - Operating

Restricted Funds 500,000

181. Knott County Fiscal Court - Beaver Park Expansions

Restricted Funds 100,000

182. Knott County Fiscal Court - Fire Departments

Restricted Funds 100,000 50,000

183.	Knott County Fiscal Court - Jail		
	Restricted Funds	600,000	600,000
184.	Knott County Fiscal Court - Knott County Incubator Project		
	Restricted Funds	500,000	559,200
185.	Knott County Fiscal Court - Senior Center Building Repairs		
	Restricted Funds		75,000
186.	Knott County Fiscal Court - Sheriff - Purchase Vehicles		
	Restricted Funds	60,000	
187.	Knott County Fiscal Court - Youth Development Center		
	Restricted Funds	800,987	800,000
188.	Knott County/City of Hazard - Water Line Extension		
	Bond Funds	661,746	
189.	Southern Water and Sewer District - Water Line Extension on Right Beaver Creek		
	Bond Funds	3,348,903	

Knox County

190.	Barbourville Utility Commission - Water Tank and Pump Station HWY 229		
	Restricted Funds	175,000	
191.	Knox County Fiscal Court- Southeast Ky. Rehabilitation Industries (SEKRI) - Renovation of Warner Building		
	Restricted Funds	330,189	
192.	Knox County Fiscal Court – Ambulance Service Equipment		
	Restricted Funds		38,000
193.	Knox County Fiscal Court – Barbourville Pentecostal Children's Home		
	Restricted Funds		20,000
194.	Knox County Fiscal Court – Barbourville Police Department Equipment		
	Restricted Funds		20,000
195.	Knox County Fiscal Court – Barbourville Senior Citizens Center – Equipment		
	Restricted Funds		10,000
196.	Knox County Fiscal Court – Corbin Senior Citizens Center – Equipment		
	Restricted Funds		10,000
197.	Knox County Fiscal Court – Eight Fire Departments to be Divided Equally		
	Restricted Funds		160,000
198.	Knox County Fiscal Court – Fire Hydrant 223 next to Dewitt School		
	Restricted Funds		1,500
199.	Knox County Fiscal Court – Fire Hydrant 830 next to West Knox School		
	Restricted Funds		1,500
200.	Knox County Fiscal Court – Health Department - Equipment		
	Restricted Funds		40,000

201. Knox County Fiscal Court – Irene Cheek Emergency Fund Service, Inc. – Computer Monogramming Sewing Machine

Restricted Funds 10,000

202. Knox County Fiscal Court – Public Library to Update Equipment

Restricted Funds 15,000

203. Knox County Fiscal Court – Woodbine Fire Department Substation at New Covenant Highway 6

Restricted Funds 50,000

204. Knox County Sheriff Department – Equipment

Restricted Funds 40,000

Laurel County

205. Wood Creek Water District - Water Line Extensions or Plant Upgrade

Restricted Funds 48,600

206. Wood Creek Water District - Water Tank and Pump Station

Restricted Funds 105,943

207. Wood Creek Water District - Water Tank and Pump Station

Restricted Funds 111,800

Lawrence County

208. City of Louisa Downtown Beautification and City Park Improvements

Restricted Funds 50,000

209. Lawrence County Board of Education - Blaine Elementary Playground Equipment and Improvements

Restricted Funds 40,000

210. Lawrence County Board of Education - Community Wellness Center

Restricted Funds 50,000 150,000

211. Lawrence County Board of Education - Lawrence County High School Ground Improvements and Lights - Girls Softball Field

Restricted Funds 45,000

212. Lawrence County Fiscal Court - Boones Landing Recreation Area - Facility and Ground Improvements

Restricted Funds 53,000

213. Lawrence County Fiscal Court - Community Center

Restricted Funds 200,000

214. Lawrence County Fiscal Court - Seven Volunteer Fire Departments to be Shared Equally

Restricted Funds 105,000

215. Lawrence County Fiscal Court - Stella Moore Field Recreation Area - Lights and Grounds Improvements

Restricted Funds 50,000

216. Lawrence County Fiscal Court - Volunteer Fire Departments

Restricted Funds 10,078

Lee County

217. City of Beattyville - Water Line Extension

	Restricted Funds	505,000	
218.	Lee County Fiscal Court - Library Renovation at Old Jail		
	Restricted Funds	150,000	
219.	Lee County Fiscal Court - Renovate Ambulance Building		
	Restricted Funds		65,000
220.	Lee County Fiscal Court - Ambulance Service ALS Enhancement		
	Restricted Funds	75,000	
221.	Lee County Fiscal Court - New Ambulance Building		
	Restricted Funds	135,000	
Leslie County			
222.	Leslie County - Campus of Hazard Community College		
	Restricted Funds		290,000
223.	Leslie County Fiscal Court - Bobs Fork, Sizerock Water Extensions		
	Restricted Funds		1,378,890
224.	Leslie County Fiscal Court - Coon Creek Fire Department		
	Restricted Funds		10,000
225.	Leslie County Fiscal Court - Cutshin Fire Department		
	Restricted Funds		10,000
226.	Leslie County Fiscal Court - Drug Awareness Programs		
	Restricted Funds		25,000
227.	Leslie County Fiscal Court - E911 Equipment and Operations		
	Restricted Funds		500,000
228.	Leslie County Fiscal Court - East Kentucky Corporation		
	Restricted Funds		75,000
229.	Leslie County Fiscal Court - Funds to be divided equally among six local Volunteer Fire Departments		
	Restricted Funds	150,000	
230.	Leslie County Fiscal Court - George Wooten Park		
	Restricted Funds		5,000
231.	Leslie County Fiscal Court - Greasy Creek Park		
	Restricted Funds		5,000
232.	Leslie County Fiscal Court - Grover Sizemore Park		
	Restricted Funds		5,000
233.	Leslie County Fiscal Court - Hyden Fire Department		
	Restricted Funds		10,000
234.	Leslie County Fiscal Court - Jail Improvements		
	Restricted Funds		250,000
235.	Leslie County Fiscal Court - Leco Road Power Extension - Economic Development		
	Restricted Funds		35,000

236.	Leslie County Fiscal Court - Leslie County Little League	
	Restricted Funds	20,000
237.	Leslie County Fiscal Court - Pines Park	
	Restricted Funds	5,000
238.	Leslie County Fiscal Court - Sheriff's Department Cruiser	
	Restricted Funds	25,000
239.	Leslie County Fiscal Court - Stinnett Area Community Center	
	Restricted Funds	500,000
240.	Leslie County Fiscal Court - Stinnett Fire Department	
	Restricted Funds	10,000
241.	Leslie County Fiscal Court - Thousandsticks Fire Department	
	Restricted Funds	10,000
242.	Leslie County Fiscal Court - Transportation Improvements	
	Restricted Funds	286,000
243.	Leslie County Fiscal Court - Wooton Fire Department	
	Restricted Funds	10,000
244.	Leslie County Water District - Water Line Extension and System Telemetry	
	Bond Funds	1,030,000

Letcher County

245.	City of Jenkins - City Hall Expansion	
	Restricted Funds	85,346
246.	City of Jenkins - Downtown Revitalization	
	Restricted Funds	120,000
247.	Letcher County Fiscal Court - New Fire Department Headquarters - Jenkins	
	Restricted Funds	30,000
248.	Letcher County Board of Education - Central High School Construction Project	
	Restricted Funds	300,000 500,000
249.	Letcher County Domestic Violence Council - Construction Project	
	Restricted Funds	100,000 100,000
250.	Letcher County Fiscal Court - Campbells Branch Line Fork Community Center	
	Restricted Funds	10,000
251.	Letcher County Fiscal Court - Eola Recreation Center	
	Restricted Funds	15,000
252.	Letcher County Fiscal Court - Expansion of Senior Citizens Centers	
	Restricted Funds	100,000
253.	Letcher County Fiscal Court - Hemphill Community Center Construction	
	Restricted Funds	10,000
254.	Letcher County Fiscal Court - Jenkins Baseball Park	

	Restricted Funds	100,000	
255.	Letcher County Fiscal Court - Letcher County Medical Evacuation Helicopter/Office and Dorm at Whitesburg Appalachian Regional Hospital.		
	Restricted Funds	250,000	100,000
256.	Letcher County Fiscal Court - Lights for Neon Little League Field		
	Restricted Funds	160,000	
257.	Letcher County Fiscal Court - McRoberts Community Center Property Design and Construction		
	Restricted Funds	35,000	200,000
258.	Letcher County Fiscal Court - Various Parks in Letcher County		
	Restricted Funds	100,000	100,000
259.	Letcher County Fiscal Court - Water Line Extension - Sandlick Water and Sewer Authority		
	Restricted Funds	800,000	
260.	Letcher County Fiscal Court - Whitesburg Recreation Center		
	Restricted Funds	35,000	
261.	Letcher County Fiscal Court - Provide funds to be shared equally among ten Volunteer Fire Departments		
	Restricted Funds	200,000	
262.	Letcher County Water and Sewer - Water Line Extension Crafts Colly		
	Restricted Funds	800,000	
Magoffin County			
263.	Magoffin County Fiscal Court - Administrative Office Building		
	Restricted Funds	1,000,000	
264.	Magoffin County Fiscal Court - Fire Departments		
	Restricted Funds	100,000	
265.	Magoffin County Rescue For Purchase of Truck		
	Restricted Funds	50,000	
266.	Magoffin County Water District - Line Extension and Plant Upgrade		
	Restricted Funds		187,954
267.	Royallton Fire Department		
	Restricted Funds	10,000	
268.	Salyersville Fire Department		
	Restricted Funds	10,000	
Martin County			
269.	City of Warfield - Community Center		
	Restricted Funds	25,000	
270.	Martin County Fiscal Court - Roy F. Collier Community Center - Furnishings and Equipment		
	Restricted Funds	500,000	
271.	Martin County Fiscal Court - Fire Department/Rescue Squad - Equipment and Fire House Improvements		

	Restricted Funds	75,000	
272.	Martin County Fiscal Court - Martin County Health Care Clinic		
	Restricted Funds	400,000	
273.	Martin County Fiscal Court - Roy F Collier Community Center Completion		
	Restricted Funds	200,000	
274.	Martin County Fiscal Court - Senior Citizens Center - Equipment		
	Restricted Funds	20,000	
275.	Martin County Sheriff's Office - Equipment		
	Restricted Funds	22,000	
276.	Martin County Volunteer Fire Departments		
	Restricted Funds	28,000	
277.	Martin County Water District - Upgrade/Expansion Water Treatment Plant		
	Bond Funds	3,122,831	
278.	Martin Fiscal Court - Emergency Management - Enhanced 911/GIS		
	Restricted Funds	100,000	
McCreary County			
279.	McCreary County Fiscal Court - Industrial Park		
	Restricted Funds	375,000	
McLean County			
280.	McLean County Fiscal Court - City of Island Water Department - Debt Service on 10" Line		
	Restricted Funds	70,000	
281.	McLean County Fiscal Court - City of Sacramento - Water System Improvements		
	Restricted Funds		50,000
282.	McLean County Fiscal Court - Extension of Water Lines at Pone River		
	Restricted Funds		50,000
283.	McLean County Fiscal Court - Fire Departments		
	Restricted Funds	80,000	
284.	McLean County Fiscal Court - Fire/Rescue Equipment or Vehicle		
	Restricted Funds		70,000
285.	McLean County Fiscal Court - High Speed Data/E-Government		
	Restricted Funds	30,000	35,000
286.	McLean County Fiscal Court - Rumsey Sewer		
	Restricted Funds		250,000
287.	McLean County Fiscal Court - Water Line Improvements and Fire Hydrants		
	Restricted Funds	120,000	
Menifee County			
288.	Menifee County Fiscal Court - Fire Departments - Divided Equally		
	Restricted Funds	40,000	26,000

289.	Menifee County Fiscal Court - Menifee County Water Line and Water Tank		
	Restricted Funds		150,000
290.	Menifee County Youth Center		
	Restricted Funds	50,000	
291.	Walking Trail Park		
	Restricted Funds	40,000	
Morgan County			
292.	Morgan County Fiscal Court - (Six Local Volunteer Fire Departments to be shared equally)		
	Restricted Funds	60,000	30,000
293.	Morgan County Fiscal Court - Development of Park at the Mouth of Caney Creek		
	Restricted Funds	50,000	
294.	Morgan County Fiscal Court - Industrial Road Development - Spec Building Construction and Industrial Site Development		
	Restricted Funds	750,000	
295.	Morgan County Fiscal Court - Morgan County Memory Hill		
	Restricted Funds	10,000	
296.	Morgan County Fiscal Court - ARH Hospital for diabetes program		
	Restricted Funds		50,000
297.	Morgan County Fiscal Court - Veterans Memorial Park		
	Restricted Funds		79,000
Muhlenberg County			
298.	Muhlenberg County Fiscal Court - Adult Education Initiative		
	Restricted Funds	100,000	
299.	Muhlenberg County Fiscal Court - Agricultural and Convention Center Building Expansion		
	Restricted Funds	50,000	
300.	Muhlenberg County Fiscal Court Purchase Eight Thermal Imaging Devices, One for Each Fire Department (Central City, Bremen, Graham, Greenville, Dunmore, Beechmont, Drakesboro, and Nelson)		
	Restricted Funds	80,000	
301.	Reauthorize Muhlenberg County Construction of Interstate Ramp at Highway 175 and Western Parkway at Graham and Redirect to the City of Greenville for Green Space, Sidewalks, and Curbing around New Judicial Center (Restricted Funds - \$200,000)		
	Restricted Funds	0	
Ohio County			
302.	Ohio County Fiscal Court - Bluegrass Memorial/Music		
	Restricted Funds	234,517	64,640
303.	Ohio County Water District - Transmission Main		
	Restricted Funds	232,260	
Owsley County			
304.	Owsley County Board of Education - WOCS Equipment		

	Restricted Funds	15,000
305.	Owsley County Fiscal Court - Economic Development Initiatives	
	Restricted Funds	150,000
306.	Owsley County Fiscal Court - Senior Citizen Center Construction and Renovation Project	
	Restricted Funds	50,000
307.	Owsley County Fiscal Court - Sewer Lines	
	Restricted Funds	150,000
308.	Owsley County Fiscal Court - Vincent/Island City Volunteer Fire Department	
	Restricted Funds	50,000
309.	Owsley County Fiscal Court - City of Booneville Park Department	
	Restricted Funds	75,000
310.	Owsley County Fiscal Court - Purchase of Industrial Spec Building	
	Restricted Funds	445,000
Perry County		
311.	City of Hazard – Extension of Water Line through Rowdy and Ary	
	Restricted Funds	500,000
312.	City of Vicco – Test City’s Water System for Leaks and Repair	
	Restricted Funds	150,000
313.	Hazard Community College	
	Restricted Funds	88,605
314.	Perry County Court Clerk – Virtual Courthouse Hardware/Software	
	Restricted Funds	150,000
315.	Perry County Fiscal Court – ARH Substance Abuse Detox Program	
	Restricted Funds	500,000
316.	Perry County Fiscal Court – East Kentucky Corporation	
	Restricted Funds	100,000
317.	Perry County Fiscal Court – Josh Dream Foundation – Long-Term Drug Abuse Treatment Center	
	Restricted Funds	100,000
318.	Perry County Fiscal Court – Krypton and Willard Water Line Extension Project	
	Restricted Funds	300,000
319.	Perry County Fiscal Court – Park Maintenance	
	Restricted Funds	51,636
320.	Perry County Fiscal Court – Payment for roads that have been bonded in order to pave	
	Restricted Funds	448,000
321.	Perry County Fiscal Court – South Perry Water Line Extension to Cornettsville	
	Restricted Funds	900,000
Pike County		
322.	Breaks Interstate Park - Improvement Project	

	Restricted Funds	500,000	500,000
323.	City of Pikeville - Underground Utilities		
	Restricted Funds	1,000,000	
324.	Elkhorn City - Construction of Fair Grounds		
	Restricted Funds	50,000	
325.	Fishtrap State Park - Expansion Project		
	Restricted Funds	500,000	300,000
326.	Mountain Water District - Miscellaneous Water Projects		
	Restricted Funds		6,500
327.	Pike County Fiscal Court - Black Gem Park - Belfry		
	Restricted Funds		50,000
328.	Pike County Fiscal Court - Blackberry Senior Citizens Center		
	Restricted Funds	100,000	
329.	Pike County Fiscal Court - Chisholm Park Project Feasibility Study		
	Restricted Funds	100,000	100,000
330.	Pike County Fiscal Court - City of Phelps - Phelps area Habitat for Humanity		
	Restricted Funds	100,000	100,000
331.	Pike County Fiscal Court - Construction of New Fire Station at Island Creek		
	Restricted Funds	50,000	
332.	Pike County Fiscal Court - Construction of New Fire Station at Virgie		
	Restricted Funds	50,000	
333.	Pike County Fiscal Court - Construction on Feds Creek Fire Department		
	Restricted Funds		50,000
334.	Pike County Fiscal Court - Dorton Community Park		
	Restricted Funds	50,000	
335.	Pike County Fiscal Court - Drug Rehabilitation Center Feasibility Study		
	Restricted Funds	50,000	
336.	Pike County Fiscal Court - For Hope, Inc. - to be divided equally among three Centers		
	Restricted Funds	90,000	90,000
337.	Pike County Fiscal Court - Freeburn Park Project		
	Restricted Funds	50,000	
338.	Pike County Fiscal Court - Grapevine Park Project		
	Restricted Funds	25,000	
339.	Pike County Fiscal Court - Hope Incorporated - Phelps - for new vehicle purchase.		
	Restricted Funds		60,000
340.	Pike County Fiscal Court - KY Appalachian Center Project		
	Restricted Funds		50,000
341.	Pike County Fiscal Court - Lick Creek Park		

	Restricted Funds	25,000	
342.	Pike County Fiscal Court - Long Fork Community Park at Virgie, KY		
	Restricted Funds	50,000	
343.	Pike County Fiscal Court - Majestic Community Park		
	Restricted Funds		50,000
344.	Pike County Fiscal Court - Mountain Water District - 50 New Fire Hydrants		
	Restricted Funds		81,500
345.	Pike County Fiscal Court - Sycamore Park Project		
	Restricted Funds	100,000	100,000
346.	Pike County Fiscal Court - To be divided equally among all Pike County Fire Departments		
	Restricted Funds		100,000
347.	Pike County Fiscal Court - To be divided equally among all Senior Citizens Centers		
	Restricted Funds	100,000	
348.	Pike County Fiscal Court - East Kentucky Exposition Center - Facility Construction		
	Restricted Funds	2,000,000	
349.	Pike County Fiscal Court - East Kentucky Exposition Center - Operations		
	Restricted Funds	150,000	250,000
350.	Pike County Fiscal Court - Elkhorn City Heritage Council - Operations and Project Development		
	Restricted Funds	10,000	

Rockcastle County

351. Rockcastle County Fiscal Court - Reauthorize the Match for Appalachia Community Initiative Project and Redirect to the Rockcastle County Industrial Authority for Land Acquisition and Job Creation or Expansion (Restricted Funds - \$245,000)

Restricted Funds	0
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Union County

352. Union County - City of Morganfield - Morganfield Pedestrian Destination: Land Acquisition, Site Development, and Professional Services

Restricted Funds	371,500
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353. Union County - City of Sturgis - Purchase Property and Building, Renovation, and Construction

Restricted Funds	100,000
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354. Union County Fiscal Court - Fairgrounds and Convention Center - Blacktop Parking Lot, Construct Horse Bath, and Provide Lighting

Restricted Funds	360,000
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355. Union County Fiscal Court - Fire and Rescue Service

Restricted Funds	200,000
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356. Union County Fiscal Court - Moffit Lake Recreational Facility

Restricted Funds	150,000
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357. Union County Fiscal Court - Paul Herron Technical Center Equipment

Restricted Funds	100,000
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358. Union County Fiscal Court - Senior Citizens Centers

	Restricted Funds	150,000	
359.	Union County Fiscal Court - Sewer Line		
	Restricted Funds		700,000
360.	Union County Fiscal Court - Flood Plain Study		
	Restricted Funds	60,000	
361.	City of Morganfield - Raw Water Main		
	Restricted Funds		700,000

Webster County

362.	Webster County Fiscal Court - South Sebree Industrial Park Sewer Line to Treatment Plant		
	Restricted Funds	850,000	
363.	Webster County Fiscal Court - City of Providence Solid Waste Program Equipment		
	Restricted Funds	100,000	
364.	Webster County Fiscal Court - Economic Development Initiative and Matching Grant		
	Restricted Funds		200,000
365.	Webster County Fiscal Court - Economic Development Marketing		
	Restricted Funds	300,000	
366.	Webster County Fiscal Court - Fire, EMS and Rescue		
	Restricted Funds	140,000	
367.	Webster County Fiscal Court - Providence Sewer Line Upgrade		
	Restricted Funds		100,000
368.	Webster County Fiscal Court - Spec Building Design and Construction		
	Restricted Funds	1,000,000	
369.	Webster County Fiscal Court - Training for Displaced Coal Miners		
	Restricted Funds	150,000	
370.	Webster County Water District - Water Line Extension		
	Restricted Funds	500,000	
371.	Webster County Water District - Water Line Extensions		
	Restricted Funds		600,000
372.	Webster County Water District - Water Tank		
	Bond Funds	500,000	

Whitley County

373.	City of Corbin - Incline Road Water Line Extension		
	Restricted Funds	179,098	
374.	Whitley County Fiscal Court - 911 Equipment Upgrade		
	Restricted Funds		50,000
375.	Whitley County Fiscal Court - Animal Shelter		
	Restricted Funds	50,000	
376.	Whitley County Fiscal Court - Repair and Purchase Equipment for Sheriff Department		

	Restricted Funds	50,000
377.	Whitley County Fiscal Court - Trenching and Sewer Cleaning Machines	
	Restricted Funds	47,600
378.	Whitley County Fiscal Court - Fire Protection	
	Restricted Funds	180,730
379.	Whitley County Fiscal Court - Senior Citizens Center	
	Restricted Funds	96,000
380.	Whitley County Library Board - Book Refurbishing and Replacement	
	Restricted Funds	50,000
Wolfe County		
381.	Wolfe County Fiscal Court - Backhoe	
	Restricted Funds	50,000
382.	Wolfe County Fiscal Court - Dump Truck	
	Restricted Funds	20,000
383.	Wolfe County Fiscal Court - Hazel Green Fire Truck Purchase	
	Restricted Funds	158,000
384.	Wolfe County Fiscal Court - Mowing Machines	
	Restricted Funds	35,000
385.	Wolfe County Fiscal Court - Service Truck	
	Restricted Funds	50,000

CAPITAL PROJECTS BUDGET PROVISIONS

FOR PART II, CAPITAL PROJECTS

1. All appropriations to existing line-item capital construction projects expire on June 30, 2002, unless reauthorized in this Act with the following exceptions: (1) A construction contract for the project shall have been awarded by June 30, 2002; (2) Permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds; (3) Grant or loan agreements, if applicable, shall have been finalized and properly signed by all necessary parties; and (4) Any capital construction project authorized pursuant to actions approved by the 2000 General Assembly House Bill 507 (2000 Ky. Acts ch. 549, Part II, R. Community Development Projects or S. Coal Severance Tax Projects), unless expressly reauthorized or reallocated in this Act. Any capital construction project authorized pursuant to actions approved by the 2000 General Assembly House Bill 507 (2000 Ky. Acts ch. 549, Part II, R. Community Development Projects or S. Coal Severance Tax Projects), that is not expressly reauthorized or reallocated in this Act is deemed to be reauthorized. Notwithstanding the criteria set forth in this section, the disposition of 2000-2002 biennium nonstatutory appropriated maintenance pools funded from Capital Construction Investment Income shall remain subject to the provisions of KRS 45.770(4)(c) and (d) with the exception of the Cabinet for Families and Children. To facilitate the transfer of five buildings from the Cabinet for Families and Children to the Finance and Administration Cabinet, it is the intent of the General Assembly that any remaining balance in any currently authorized Cabinet for Families and Children non-bond funded project be credited to the Finance and Administration Cabinet Maintenance Pool. Purchases of major items of equipment require reauthorization if a purchase order has not been executed by June 30, 2002.

2. Bond projects authorized for the first time in this section which have debt service supported by state General Fund appropriations are authorized in the first year of the biennium. Debt service has been included at the beginning of fiscal year 2003-2004. However, the sale of any bonds to finance these projects shall occur after August 1, 2003.

3. If any authorized capital construction or major equipment projects are canceled, any General Fund appropriated debt service for those same projects shall lapse to the credit of the General Fund.

4. Notwithstanding KRS 45.750 to 45.810, the General Assembly has determined that certain individual capital projects identified in this Act as eligible for funding from the Emergency Repair, Maintenance, and Replacement Fund, the Capital Construction and Equipment Purchase Contingency Fund, or the Deferred Maintenance Fund require a direct appropriation from the Emergency Repair, Maintenance, and Replacement Fund, the Capital Construction and Equipment Purchase Contingency Fund, or the Deferred Maintenance Fund in this Act.

5. Investment income earned from bond proceeds beyond that which is required to satisfy Internal Revenue Service arbitrage rebates and penalties and excess bond proceeds upon the completion of a bond-financed capital project may be used to pay debt service according to the Internal Revenue Service Code and accompanying regulations. Notwithstanding KRS 48.010(13)(b), 48.720, or any section of this Act, any funds appropriated but not required to pay debt service because of this fund source substitution shall be credited to the Deferred Maintenance Pool Account each year. Unneeded debt service resulting from any other circumstance shall lapse in accordance with KRS 48.010(13)(b), 48.720, and other provisions of this Act except for the following: if the fund balance in the Emergency Repair, Maintenance, and Replacement Fund falls below \$5,000,000 in fiscal year 2002-2003, any debt service lapse necessary to bring the fund balance to \$5,000,000 in that fiscal year shall be credited to the Emergency Repair, Maintenance, and Replacement Fund. If the Emergency Repair, Maintenance, and Replacement Fund remains at \$5,000,000 or above, the first \$2,000,000 in fiscal year 2002-2003 in debt service lapse shall be deposited to the General Fund Surplus Account for the purpose of paying unbudgeted Necessary Government Expenses. No transfer to the Emergency Repair, Maintenance, and Replacement Fund, Deferred Maintenance Pool Account, or the General Fund Surplus Account shall be made based on the above provisions if the lapse from other General Fund accounts is insufficient to meet appropriations approved in other parts of this Act.

6. Investment income earned from funds credited to the Technology Trust Fund account in the Finance and Administration Cabinet shall accrue to the Capital Construction and Equipment Purchase Contingency Account established in KRS 45.770.

7. Notwithstanding KRS 45.750 to 45.810, 45.812, 45.814, 45.816, and 45.818, capital construction projects at institutions of postsecondary education involving no state or Federal Funds may be authorized between regular sessions of the General Assembly if the projects receive prior approval from both the Council on Postsecondary Education and the Secretary of the Finance and Administration Cabinet, and the Capital Projects and Bond Oversight Committee receives prior notification.

8. The Research Challenge Trust Fund-Endowment Match capital project appropriation under the Council on Postsecondary Education (L.1.c.) shall be transferred to the Research Challenge Trust Fund as established in KRS 164.7911 and 164.7917.

9. The Regional University Excellence Trust Fund-Endowment Match capital project appropriation under the Council on Postsecondary Education (L.1.d.) shall be transferred to the Regional University Excellence Trust Fund as established in KRS 164.7911 and 164.7919.

10. Notwithstanding 2000 Ky. Acts ch. 549, Capital Projects Budget Provisions for Part II, Capital Projects, 10., pertaining to the Capital Renewal and Maintenance Pool, the matching requirement is extended until June 30, 2004. Each postsecondary education institution may access any unmatched funds allocated from the Capital Renewal and Maintenance Pool to that institution after entering into an agreement with the Council on Postsecondary Education agreeing to fulfill the matching requirement by June 30, 2004. The Council on Postsecondary Education shall develop guidelines for the agreements.

11. Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission under KRS 56.440 to 56.590. In addition to the terms and conditions of KRS 154.12-100, administration of the Economic Development Bond Program by the Secretary of the Cabinet for Economic Development is subject to the following guideline: project selection shall be documented when presented to the Secretary of the Finance and Administration Cabinet. Included in the documentation shall be the rationale for selection and expected economic development impact.

12. Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following areas: Kentucky Infrastructure Authority Water and Sewer Projects Pool, Repair of State-Owned Dams, Land Acquisition, Property Demolition, Guaranteed Energy Savings projects, Purchase of Agricultural Conservation Easements (PACE), Wetland and Stream Mitigation, Phase I Tobacco Settlement Agricultural Development Initiative, Economic Development projects which shall include

authorization for the High-Tech Construction Pool and the High-Tech Investment Pool, Infrastructure projects, Employment Services facilities projects authorized in this part of this Act, Asbestos Abatement projects, Technology Trust Fund projects, systems, initiatives, and the Council on Postsecondary Education Fire/Life Safety/Infrastructure Agency Bond Pool and the Renovations/Infrastructure/New Construction Agency Bond Pool. Any projects estimated to cost over \$400,000 and equipment estimated to cost over \$100,000 shall be reported to the Capital Projects and Bond Oversight Committee. All moneys transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

13. Notwithstanding KRS 42.560 or any other statute or provision of law to the contrary, all undisbursed funds in the Energy Assistance Trust Fund, the expenditure authority for which expired February 19, 1998, are hereby transferred and appropriated to the Energy Efficiency in State Government Buildings Revolving Loan Fund (KRS 56.783). These funds represent receipts and accumulated interest thereon from the Stripper Well Settlement Agreement under the U.S. Department of Energy Stripper Well Exemption Litigation, as provided in KRS 42.560 to 42.566. These funds are appropriated as Restricted Funds in the Finance and Administration Cabinet's Capital Budget.

14. Notwithstanding KRS 154.33-600 to 154.33-609 or any other statute or provision of law to the contrary, all Restricted Funds appropriated by the 1998 General Assembly and added to or reauthorized by the 2000 General Assembly for the Red Fox golf course are hereby reauthorized and reallocated to a new entity entitled "The Perry/Knott County Recreational Authority" (PKCRA) with the following exception: the \$700,000 originally appropriated by the 1998 General Assembly from the Letcher County/Single County Coal Severance tax money is hereby directed to be returned to Letcher County. The balance of Restricted Funds remaining in the heretofore entitled Red Fox/Carr Fork golf course project are authorized to be directed to a public recreational project or projects including but not limited to a public golf course at a site or sites to be determined by the Authority. The recreational project or projects supported by these funds shall be administered through a new bi-county cooperative authority comprised of one member from each of Knott and Perry Counties who shall be appointed by the respective County Judge/Executive and three members who shall be appointed by the Governor. The new five member Board of the Authority shall develop, operate, and manage the project. This authorization shall supersede any previous authorization by the General Assembly and any memorandum of agreement or understanding that has been entered into among the Commonwealth, Perry, Knott, and Letcher counties.

15. The appropriation by the 2000 General Assembly in the amount of \$2,000,000 in Bond Funds for fiscal year 2001-2002 (2000 Ky. Acts ch. 549, Part II, R. Community Development Projects, 1. Finance and Administration Cabinet, number 661, Aquaculture Infrastructure Components), in accordance with the provisions of Capital Projects Budget Provisions for Part II, Capital Projects, 4., of this Act, is reauthorized and reallocated in fiscal year 2002-2003 to be appropriated to Kentucky State University as follows: \$600,000 to the Purchase Area Aquaculture Cooperative of which \$450,000 is to be used for operating costs on the existing facility, education, initiatives to promote marketing and quality control, and other expenditures deemed appropriate under the Cooperative Agreement between Kentucky State University and the Purchase Area Aquaculture Cooperative and the remaining \$150,000 is to be used to complete the Pond Cost Share Program for farmers that were deemed qualified but due to rankings did not get funded; \$900,000 to the Kentucky State University Aquaculture Program of which \$800,000 is to be used for shrimp research and development, and the remaining \$100,000 is to be used for bass research and development; \$400,000 to the Montgomery County Aquaculture Cooperative, to be spent on the purchase and installation of aquaculture processing equipment, education, and other expenditures deemed appropriate under the Cooperative Agreement between Kentucky State University and the Montgomery County Aquaculture Cooperative; and \$100,000 to the Thoroughbred Shrimp Company in Franklin County for support and enhancement of its shrimp hatchery operations, including the purchase and installation of equipment and other expenditures deemed appropriate under the Cooperative Agreement between Kentucky State University and the Thoroughbred Shrimp Company in Franklin County.

16. It is the intent of the General Assembly that the Council on Postsecondary Education, in consultation with the conference of presidents, identify projects for funding from the Council's Agency Bond Pools. The highest priority should be afforded those projects which address the Commonwealth's commitment to the Partnership agreement with the Office for Civil Rights, student housing fire safety, and other life safety projects. Any unused authority should be used to address renovations, infrastructure, and new facilities. The Council on Postsecondary Education shall report disbursements from the Agency Bond Pools to the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on Education, the Secretary of the Finance and Administration Cabinet, and the Capital Projects and Bond Oversight Committee.

17. The State Budget Director is authorized to review and realign the appropriations made in Part II, Capital Projects Budget, in fiscal year 2002-2003 to the agency maintenance pools identified below in this section, to provide funding for any purchases that have been initiated prior to the effective date of this Act. The State Budget Director is required to report to the Interim Joint Committee on Appropriations and Revenue within 30 days of any realignment of these appropriations.

- a. Department of Military Affairs Maintenance Pool
- b. Department of Military Affairs - Maintenance Pool - Air Transportation
- c. Department of Education Maintenance Pool
- d. Kentucky Center for the Arts Maintenance Pool
- e. Department of Facilities Management Maintenance Pool
- f. Department for Mental Health/Mental Retardation Services
Maintenance Pool
- g. Department of State Police Maintenance Pool
- h. Department of Juvenile Justice Maintenance Pool
- i. Corrections Management Maintenance Pool
- j. Kentucky Heritage Land Conservation Maintenance Pool
- k. Department of Parks Maintenance Pool
- l. Kentucky Horse Park Maintenance Pool
- m. Workforce Development Cabinet - General Administration and Program
Support Maintenance Pool

18. The Guaranteed Energy Performance Projects Pool shall serve as a central project pool for Guaranteed Energy Savings Performance Contracts in any state-owned building. These contracts will function as lease-purchase procurements, using energy savings as payment for improvements, as provided by KRS 56.770 to 56.784. The Finance and Administration Cabinet is authorized to enter into various guaranteed energy performance contracts for facilities in any state agency up to a total amount of \$37,500,000. Included in this authorization are \$1,160,000 for HVAC upgrades for Ashland and Owensboro Armories, \$3,000,000 for energy improvements for various institutions in the Department of Corrections, and \$2,540,000 for energy improvements in the Department for Employment Services facility located in Louisville.

19. Included in the Economic Development Bond Pool authorization is \$5,000,000 to be used for a regional industrial development project with an existing multicounty agreement that is not eligible for funding under KRS 42.4588 issued subject to terms established by the Kentucky Economic Development Finance Authority (KEDFA). This \$5,000,000 of bond proceeds shall be issued prior to June 30, 2004, and the bond proceeds shall not be substitutable for another project.

20. If, upon conducting the cost/benefit analysis directed in Part IX, Special Provisions, of this Act, the Secretary of the Tourism Development Cabinet determines that completing the newly constructed courses is the most cost-effective option, bonds are authorized for the newly constructed golf course completion projects not to exceed the amount of bond proceeds supported by \$1,069,000 Restricted Funds debt in fiscal year 2003-2004 to complete the following golf course projects at the specified funding levels. If the amount of bond proceeds supported by \$1,069,000 is not sufficient to meet the specified funding levels below, the Secretary shall divide the proceeds among the projects based on a pro rata share of the specified amount. In the event there are excess funds from one project, the excess funds may be expended on any of the specified projects.

- a. Dale Hollow Lake State Park (\$3,000,000)
- b. Yatesville Lake State Park (\$3,000,000)
- c. Grayson Lake State Park (\$3,900,000)
- d. Mineral Mounds State Park (\$2,700,000)

- e. Pennyrile State Park (\$1,900,000)
- f. Kincaid Lake State Park (\$3,000,000)

The Secretary of the Finance and Administration Cabinet shall execute the bond sale according to KRS 56.440 to 56.590.

21. Bond funds authorized in Part II, Capital Projects Budget, of this Act, for the Rupp Arena/Lexington Civic Center project shall not exceed the amount of bond proceeds supported by \$1,400,000 of General Fund debt service as provided in Part I, Operating Budget, Economic Development, Financial Incentives. Notwithstanding KRS 56.870 to 56.871 and any other statute or provision of this Act to the contrary, the amount of bond proceeds may exceed \$15,000,000 to the extent the total amount of bonds is supported by \$1,400,000 of General Fund debt service.

22. Notwithstanding KRS 45.229 and 48.720, unneeded debt service appropriated in Part I, L. Postsecondary Education, 67., 70., 71., and 72. in the amount of \$2,892,000 in fiscal year 2003-2004 shall be credited to the General Fund for use in fiscal year 2003-2004.

PART III

GENERAL PROVISIONS

1. Restricted Funds designated in the biennial budget bills are classified in the state financial records and reports as the Agency Revenue Fund, State Enterprise Funds (State Parks, State Fair Board, Insurance Administration, and Kentucky Horse Park), Internal Services Funds (Fleet Management, Computer Services, Correctional Industries, Central Printing, Risk Management, and Property Management), and selected Fiduciary Funds (Unemployment Compensation and Other Expendable Trust Funds). Separate funds records and reports shall be maintained in a manner consistent with the branch budget bills.

The sources of Restricted Funds appropriations in this Act shall include all fees (which includes fees for room and board, athletics, and student activities) and rentals, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments, and other miscellaneous receipts produced or received by a budget unit, except as otherwise specifically provided, for the purposes, use, and benefit of the budget unit as authorized by law. Restricted Funds receipts shall be credited and allotted to the respective fund or account out of which a specified appropriation is made in this Act. All receipts of Restricted Funds shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

The sources of Federal Funds appropriations in this Act shall include federal subventions, grants, contracts, or other Federal Funds received, income from investments, and other miscellaneous federal receipts received by a budget unit, except as otherwise provided, for the purposes, use, and benefit of the budget unit as authorized by law. Federal Funds receipts shall be credited and allotted to the respective fund account out of which a specified appropriation is made in this Act. All Federal Funds receipts shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

2. If receipts received or credited to the Restricted Funds accounts or Federal Funds accounts of a budget unit during fiscal year 2002-2003 or fiscal year 2003-2004, and any balance forwarded to the credit of these same accounts from the previous fiscal year, exceed the appropriation made by specific sum for these accounts of the budget unit as provided in Part I, Operating Budget, of this Act for the fiscal year in which the excess occurs, the excess funds in the accounts of the budget unit shall become available for expenditure for the purpose of the account during the fiscal year only upon compliance with the conditions and procedures specified in KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810 and this Act, and with the authorization of the State Budget Director and approval of the Secretary of the Finance and Administration Cabinet.

Prior to authorizing the appropriation of any excess, unbudgeted Restricted Funds pursuant to this section, the State Budget Director and the Secretary of the Finance and Administration Cabinet shall review the adequacy of the General Fund Surplus Account with respect to its availability to support Necessary Government Expenses. In the event that General Fund Surplus Account moneys are determined by this review to be adequate to meet known or anticipated Necessary Government Expenses during fiscal year 2002-2003 or fiscal year 2003-2004, respectively, then the appropriation increase may be approved. In the event that the review contemplated in this section indicates that there are insufficient funds available or reasonably estimated to become available to the General Fund Surplus Account to meet known or projected Necessary Government Expenses for the fiscal years enumerated above, the State Budget Director, with the concurrence of the Secretary of the Finance and Administration Cabinet, may disapprove the request for additional Restricted Funds expenditure authority and may direct the excess Restricted

Funds identified to the General Fund Surplus Account in order to meet Necessary Government Expense obligations. The results of any review shall be reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810.

On or before the beginning of each fiscal year, and, if applicable, during each fiscal year, each budget unit shall document and submit to the Finance and Administration Cabinet, the Governor's Office for Policy and Management, and the Legislative Research Commission a record of Restricted Funds and Federal Funds for each budget unit showing the most current estimates of receipts by sources and expenditures by uses, a comparative statement of any revised estimated receipts and proposed expenditures with appropriation sums specified in the enacted Budget of the Commonwealth, and statements which explain the cause, source, and use for any variance which may exist.

Each budget unit shall submit its reports in print and electronic format consistent with the Restricted Funds and Federal Funds records contained in the fiscal biennium 2002-2004 Branch Budget Request Manual and according to the following schedule in each fiscal year: (1) On or before the beginning of each fiscal year; (2) On or before October 1; (3) On or before January 1; and (4) On or before April 1.

3. Funds appropriated in this Act shall not be expended for any purpose not specifically authorized by the General Assembly in this Act nor shall funds appropriated in this Act be transferred to or between any cabinet, department, board, commission, institution, agency, or budget unit of state government unless specifically authorized by the General Assembly in this Act and the provisions of KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810. Compliance with the provisions of this subsection shall be reviewed and determined by the Interim Joint Committee on Appropriations and Revenue.

4. No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund or Road Fund appropriations contained in this Act unless the obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation considered by the General Assembly, legislative and executive records, and the statutory budget memorandum.

5. Any General Fund or Road Fund appropriation made in anticipation of a lack, loss, or reduction of Federal Funds shall lapse to the General Fund or Road Fund Surplus Account respectively to the extent the Federal Funds otherwise become available.

6. A state agency entitled to Federal Funds which would represent 100 percent of the cost of a program shall conform to KRS 48.730.

7. Pursuant to KRS 48.720, any excess General Fund or Road Fund debt service shall lapse to the respective surplus account unless otherwise directed in this Act.

8. No appropriation from any fund source shall exceed the sum specified in this Act until the agency has documented the necessity, purpose, use, and source, and the documentation has been submitted to the Interim Joint Committee on Appropriations and Revenue for its review and action in accordance with KRS 48.630. Proposed revisions to an appropriation contained in the enacted State/Executive Budget or allotment of an unbudgeted appropriation shall conform to the conditions and procedures of KRS 48.630 and this Act.

Notwithstanding KRS 48.630(3), (4), and (5), any proposed and recommended actions to increase appropriations for funds specified in Section 2 of this Part shall be scheduled consistent with the timetable contained in that section in order to provide continuous and timely budget information.

9. Allotments within appropriated sums for the activities and purposes contained in the enacted State/Executive Budget shall conform to KRS 48.610 and may be revised pursuant to KRS 48.605 and this Act.

10. All statutory continuing appropriations in existence at the time this Act takes effect are discontinued and suspended by this Act except as provided by Chapters 42, 96A, 164, 183, 278, and 441 of the Kentucky Revised Statutes. All statutes and portions of statutes in conflict with any of the provisions of this section, to the extent of the conflict, are suspended unless otherwise provided by this Act.

11. Except as otherwise explicitly authorized by this Act, nothing in this Act shall be construed to repeal any appropriation made heretofore or hereafter for the fiscal year ending June 30, 2002, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet except as otherwise provided in this Act.

12. All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which the appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500, and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

13. The State Budget Director shall cause the Governor's Office for Policy and Management, within 60 days of adjournment of the 2003 Regular Session of the General Assembly, to publish a final enacted budget document, styled the Budget of the Commonwealth, based upon the recommended Legislative Budget as enacted by the 2002 Regular Session of the General Assembly and the recommended State/Executive Budget and Judicial Budget as enacted by the 2003 Regular Session of the General Assembly as well as other Acts which contain appropriation provisions for the 2002-2004 biennium, and based upon supporting documentation and legislative records as considered by the 2002 Regular Session of the General Assembly, the 2003 Regular Session of the General Assembly, and the statutory budget memorandum. This document shall include, for each agency and budget unit, a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class and for the State/Executive Budget, and any other fiscal data and commentary considered necessary for budget execution by the Governor's Office for Policy and Management and oversight by the Interim Joint Committee on Appropriations and Revenue. The enacted State/Executive Budget shall be revised or adjusted only upon approval by the Governor's Office for Policy and Management as provided in each part of this Act and by KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810, and upon review and action by the Interim Joint Committee on Appropriations and Revenue.

14. Pursuant to KRS 48.400, the State Budget Director shall monitor and report on the financial condition of the Commonwealth.

15. The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for prorating the administrative costs of the Finance and Administration Cabinet, the Department of Treasury, and the Office of the Attorney General relative to the administration of programs in which there is joint participation by the state and federal governments for the purpose of receiving the maximum amount of participation permitted under the appropriate federal laws and regulations governing the programs. The receipts and allotments under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue prior to any transfer of funds.

16. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease-rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Secretary of the Transportation Cabinet. However, if Road Fund resources are not sufficient to meet lease-rental payments, the additional amount required for meeting lease-rental payments as certified by the Secretary of the Transportation Cabinet under KRS 143.090 shall be transferred from coal severance tax receipts to meet the obligation.

17. Nothing in this Act shall be construed to confirm or ratify, under KRS 12.027 or 12.028, any executive reorganization order unless the executive order was confirmed or ratified by appropriate amendment to the Kentucky Revised Statutes in an Act of the 2002 Regular Session of the General Assembly or another Act of the 2003 Regular Session of the General Assembly. If any executive reorganization order issued from sine die adjournment of the 2001 Regular Session to sine die adjournment of the 2002 Regular Session was not confirmed by the 2002 Regular Session of the General Assembly, the Secretary of the Finance and Administration Cabinet shall, in consultation with agency heads and with notification to the Legislative Research Commission, transfer the balance of funds for any affected program or function for fiscal year 2001-2002 and any related appropriations and funds for each of the next two fiscal years from the budget unit in which the program or function was placed by the executive reorganization order to the budget unit in which the program or function resided prior to the reorganization action or in which it was placed by action of the 2002 Regular Session of the General Assembly. If any executive reorganization order issued from sine die adjournment of the 2002 Regular Session to sine die adjournment of the 2003 Regular Session was not confirmed by the 2003 Regular Session of the General Assembly, the Secretary of the Finance and Administration Cabinet shall, in consultation with agency heads and with notification to the Legislative Research Commission, transfer the balance of funds for any affected program or function for fiscal year 2002-2003 and any related appropriations and funds for the next fiscal year from the budget unit in which the program or function was placed by the executive reorganization order to the budget unit in which the program or function resided prior to the reorganization action or in which it was placed by action of the 2003 Regular Session of the General Assembly. The Legislative Research Commission shall forward the documentation to the appropriate committees.

18. Notwithstanding KRS 61.565, the employer contribution rate for the Kentucky Employees Retirement System shall be as follows: the General Assembly has determined that the employer contribution rate for the Kentucky Employees Retirement System for fiscal year 2002-2003 shall take appropriate notice of the additional revenues credited to the system as a result of the Anthem Blue Cross Blue Shield demutualization agreement. Therefore, from July 1, 2002, through June 30, 2003, the contribution rates shall be no more than three and seventy-six hundredths percent for nonhazardous duty employees, 17.6 percent for hazardous duty employees, and 17.37 percent for employees of the State Police Retirement System, except that the employer contribution rates established by KRS 61.565 shall be paid by employers who pay employer contributions with funding sources other than the General Fund. From July 1, 2003, through June 30, 2004, the employer contribution rate shall be no more than five and eighty-nine hundredths percent for nonhazardous duty employees, 18.84 percent for hazardous duty employees, and 21.58 percent for employees of the State Police Retirement System.

19. By August 15, 2003, the State Budget Director, in conjunction with the Consensus Forecasting Group, shall provide to each branch of government, pursuant to KRS 48.117, a budget planning report.

20. By October 15, 2003, the Office of State Budget Director shall provide to each branch of government detailed estimates for the General Fund and Road Fund for the current and next two fiscal years of the revenue loss effected by tax expenditures. The Revenue Cabinet shall provide assistance and furnish data which is not restricted by KRS 131.190. "Tax expenditure" means an exemption, exclusion, or deduction from the base of a tax, a credit against the tax, a deferral of a tax, or a preferential tax rate. The estimates shall include for each tax expenditure the amount of revenue loss, a citation of the legal authority for the tax expenditure, the year in which it was enacted, and the tax year in which it became effective.

21. Any appropriation item and sum in Parts I to XI and XIII of this Act and in an appropriation provision in another Act of the 2002 or 2003 Regular Session which constitute a duplicate appropriation shall be governed by KRS 48.312.

22. 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.

23. Appropriation items and sums in Parts I to XI and XIII of this Act shall conform to KRS 48.311. If any section, any subsection, or any provision is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

24. For fiscal year 2002-2003, the first \$6,000,000 of any unclaimed prize money held in the corporate operating account of the Kentucky Lottery Corporation shall be added to the pool from which future prizes are to be awarded or used for special prize promotions. For fiscal year 2002-2003, any amount in excess of \$6,000,000, but not to exceed \$3,300,000, shall be transferred to the Affordable Housing Trust Fund established by KRS 198A.710. For fiscal year 2002-2003, any amount in excess of \$9,300,000 shall be credited to the Kentucky Excellence in Education Scholarship (KEES) Program Reserve Account established by this section. The Finance and Administration Cabinet shall establish the Kentucky Excellence in Education Scholarship (KEES) Program Reserve Account as a restricted funds account to be used solely for the purposes of KRS 164.7871 to 164.7885. Moneys in this account shall not lapse and shall be carried forward into the next fiscal year.

For fiscal year 2003-2004, all unclaimed lottery prize money under KRS 154A.130 shall be credited to the Kentucky Excellence in Education Scholarship (KEES) Program Reserve Account. In addition to the General Fund appropriation to the Student Financial Aid and Advancement Trust Fund contained in Part I of this Act, an appropriation of \$5,000,000 is made from the Reserve Account to the Trust Fund for the KEES Program as provided in KRS 164.7871 to 164.7885. If the Kentucky Higher Education Assistance Authority certifies to the State Budget Director that the appropriations in this Act for the KEES Program under the existing award schedule are insufficient to meet funds required for eligible applicants, then the State Budget Director shall provide the necessary allotment of funds in the balance of the Reserve Account to fully fund the KEES Program. Actions taken under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue on a timely basis.

25. The Technology Trust Fund is the Technology Trust Fund established by 1996 Ky. Acts ch. 380, Part X, to empower Kentucky state government through technology and redesigned business systems, and additional amounts made available and appropriated to it by the 1998 Regular Session in House Bill 321 (1998 Ky. Acts ch. 615, Part X).

Appropriations allotted from the Technology Trust Fund for each project, initiative, or system, as well as all other associated resources made available from regular appropriations for the same purpose from a budget unit shall be transferred and credited to, and accounted for and expended from, a discrete account established for the individual project, initiative, or system item. In addition to the General Fund appropriations for the Technology Trust Fund, Restricted Funds, Federal Funds, the Road Fund, private funds, and any matching fund appropriations required are appropriated in support of the projects and priorities identified by the Empower Kentucky Steering Committee. However, notwithstanding KRS 45.760(14), 45.770, 45.780, and 45.800, no funds from the Emergency Repair, Maintenance, and Replacement Account shall be used for Technology Trust Fund projects, systems, or initiatives.

26. The General Assembly acknowledges that during fiscal year 2000-2001 the General Fund revenues were less than the enacted estimates pursuant to KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in 2000 Ky. Acts chs. 544, 545, and 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 biennium General Fund Budget Reduction Plan for fiscal year 2000-2001 in 2000 Ky. Acts ch. 549, Part VI, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the heads of the executive, judicial, and legislative branches shall revise and reduce appropriations and allotments and other deficit alleviation actions for their respective branch budget units under KRS 48.130(4).

Notwithstanding KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised General Fund appropriation levels for the budget units of the Executive Branch identified in General Fund Budget Reduction Order 01-01 and General Fund Budget Reduction Order 01-02 and confirms and enacts the advances, transfers, and lapses to the General Fund of non-General Fund moneys identified in General Fund Budget Reduction Order 01-01 and General Fund Budget Reduction Order 01-02.

The General Assembly acknowledges that during fiscal year 2001-2002 the General Fund revenues were less than the enacted estimates pursuant to KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in 2000 Ky. Acts chs. 544, 545, and 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 biennium General Fund Budget Reduction Plan for fiscal year 2001-2002 in 2000 Ky. Acts ch. 549, Part VI, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the heads of the executive, judicial, and legislative branches shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised General Fund appropriations levels for budget units of the Executive Branch contained in General Fund Budget Reduction Order 02-01, General Fund Budget Reduction Order 02-02, General Fund Budget Reduction Order 02-03, and General Fund Budget Reduction Order 02-04, and confirms and enacts the advances, transfers, and lapses to the General Fund of non-General Fund moneys identified in General Fund Budget Reduction Order 02-01, General Fund Budget Reduction Order 02-02, General Fund Budget Reduction Order 02-03, and General Fund Budget Reduction Order 02-04.

The 2000 General Assembly enacted the 2000-2002 biennium Road Fund Budget Reduction Plan for fiscal year 2000-2001 in 2000 Ky. Acts ch. 549, Part VII, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the head of the Executive Branch shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding the provisions of KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised Road Fund appropriation levels for the budget units of the Executive Branch identified in Road Fund Budget Reduction Order 01-01 and Road Fund Budget Reduction Order 01-02 and confirms and enacts the advances, transfers, and lapses to the Road Fund of non-Road Fund moneys identified in Road Fund Budget Reduction Order 01-01 and Road Fund Budget Reduction Order 01-02.

The General Assembly acknowledges that during fiscal year 2001-2002 the Road Fund revenues were less than the enacted estimates in accordance with KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in 2000 Ky. Acts ch. 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 biennium Road Fund Budget Reduction Plan for fiscal year 2001-2002 in 2000 Ky. Acts ch. 549, Part VII, for state government in accordance with KRS 48.130(1) and (3).

These statutes and Acts provide direction and authority by which the head of the Executive Branch shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised Road Fund appropriations levels for budget units of the Executive Branch contained in Road Fund Budget Reduction Order 02-01 and Road Fund Budget Reduction Order 02-02, and confirms and enacts the advances, transfers, and lapses to the Road Fund of non-Road Fund moneys identified in Road Fund Budget Reduction Order 02-01 and Road Fund Budget Reduction Order 02-02.

27. Notwithstanding any provision of the Kentucky Revised Statutes, to the extent that any governmental agency purchases motor vehicle liability insurance, sovereign immunity shall be waived to the extent of the insurance coverage.

28. Notwithstanding KRS 97.035(1), (2), and (3), when a city of the first class and a county containing a city of the first class have in effect a compact under KRS 79.310 to 79.330, such city and county shall by joint action create a joint city/county department to maintain and conduct a park and recreational system or systems. In such event, the board shall be dissolved as a corporate entity and all assets and liabilities of the board shall be transferred to the joint department. An advisory board may be established by joint agreement of such city and county. Notwithstanding KRS 97.035(1), (2), and (3), any city, except a city of the first class, and a county, except a county containing a city of the first class, operating a joint system under KRS 97.035 may by joint action create a joint city/county department to maintain and conduct a park and recreational system or systems. In such event, the board shall be dissolved as a corporate entity and all assets and liabilities of the board shall be transferred to the joint department. An advisory board may be established by joint agreement of such city and county.

29. As provided in Part V, Funds Transfer, of this Act, any funds remaining in flexible spending accounts of employees of local school districts for calendar year 2003 shall also be transferred to the credit of the General Fund.

30. Notwithstanding KRS 139.340, a commercial printer or mailer engaged in business in this state shall not be required to collect use tax on sales of printing or direct mail advertising materials that are both printed out of state and delivered out of state to the United States Postal Service for mass mailing to third-party Kentucky residents who are not purchasers of the advertising materials if the commercial printers or mailers:

- (a) Maintain records relating to these sales to assist in the collection of the use tax owed; and
- (b) File reports as provided in KRS 139.730 if requested by the Revenue Cabinet.

If the commercial printer or mailer complies with these reporting provisions, the purchaser of the printing or direct mail advertising materials described in this section shall have sole responsibility for payment of the use tax imposed in KRS 139.310.

31. Notwithstanding KRS 48.705(2)(a), within 30 days of the end of fiscal year 2002-2003, the Secretary of the Finance and Administration Cabinet shall cause to be deposited to the Budget Reserve Trust Fund Account 100 percent of all General Fund revenue receipts in excess of the revenue estimates determined under KRS 48.120(3), or the amount subsequently certified by the State Budget Director pursuant to KRS 48.400(3) for the fiscal year just ended, and 100 percent of the unexpended balance of all General Fund appropriations for the fiscal year just ended that would otherwise lapse to the General Fund Surplus Account under KRS 45.229. The deposit to the Budget Reserve Trust Fund shall exclude the amount of General Fund surplus designated for budgeted purposes. Notwithstanding provisions in Part X, General Fund Surplus Expenditure Plan, and other parts of this Act, the amount from the undesignated fiscal year 2002-2003 General Fund balance (General Fund Surplus Account, KRS 48.700) that is designated and carried forward to fiscal year 2003-2004 for budgeted purposes shall be determined by the State Budget Director during the close of fiscal year 2002-2003. This determination shall be based upon supporting documentation and legislative records and the statutory budget memorandum and shall be reported to the Interim Joint Committee on Appropriations and Revenue within 30 days of the close of the fiscal year.

32. Notwithstanding KRS 248.654, all Master Settlement Agreement - Phase I payments in excess of the amounts appropriated in Part I of this Act shall be retained in the General Fund.

33. The General Assembly declares that the financial condition of the Commonwealth requires the following fiscal policies to be implemented and administered during the 2002-2004 fiscal biennium:

a. Notwithstanding KRS 18A.115, the Secretary of the Personnel Cabinet shall not approve any additional principal assistants or deputies above the number employed on December 1, 1995.

b. Effective September 16, 2003, the number of principal assistants shall not exceed the number employed on December 1, 1995. The Governor shall direct all agencies of the Executive Branch, including constitutional officers, as to the number to be reduced in each agency.

c. Effective December 1, 2003, the number of unclassified employees shall be 250 fewer than the number employed as of the effective date of this Act. The Governor shall direct all agencies of the Executive Branch, including constitutional officers, as to the number to be reduced in each agency. For purposes of this provision, unclassified employees shall be defined as Cabinet Secretaries, Deputy Secretaries, Commissioners, Deputy Commissioners, Executive Directors, Deputy Executive Directors, Division Directors, Principal Assistants, General Counsels, or any other position subject to the provisions of KRS 12.050 or KRS 11.040(1).

d. Notwithstanding KRS 12.027 and 12.028, no Executive Order shall create any additional unclassified positions. For purposes of this provision, unclassified employees shall be defined as Cabinet Secretaries, Deputy Secretaries, Commissioners, Deputy Commissioners, Executive Directors, Deputy Executive Directors, Division Directors, Principal Assistants, General Counsels, or any other position subject to the provisions of KRS 12.050 or KRS 11.040(1).

e. The Personnel Cabinet shall monitor the number of total employees in the Executive Branch and report to the Interim Joint Committee on Appropriations and Revenue on a monthly basis regarding the targeted reduction of 1,000 employees from the state workforce by December 13, 2003, as set forth in Executive Order 2002-1334.

~~f. Prior to July 1, 2004, no KRS Chapter 18A unclassified employee shall be appointed to a KRS Chapter 18A classified position, unless the employee has reversion rights under KRS 18A.115 or has career employee status under KRS 18A.005(4). For purposes of this provision, unclassified employees shall be defined as Cabinet Secretaries, Deputy Secretaries, Commissioners, Deputy Commissioners, Executive Directors, Deputy Executive Directors, Division Directors, Principal Assistants, General Counsels, or any other position subject to the provisions of KRS 12.050 or KRS 11.040(1).~~

34. The General Assembly declares that the financial condition of the Commonwealth requires the following fiscal policies to be implemented and administered during the 2002-2004 fiscal biennium:

a. The Finance and Administration Cabinet shall report to the Interim Joint Committee on Appropriations and Revenue on a monthly basis regarding the number and encumbered dollar amounts of personal service contracts and memorandums of agreements approved for Executive Branch agencies. For fiscal year 2002-2003, the moratorium as set forth in Executive Order 2002-1334 shall remain in effect. For fiscal year 2003-2004, the total amount of funds encumbered for personal services contracts and memorandums of agreements reportable to the Government Contract Review Committee pursuant to KRS 45A.705 shall not exceed the total expended in fiscal year 2001-2002, less \$100,000,000. This maximum shall only be exceeded if the contract is for an emergency related to public health or safety, legal defense, or other extraordinary circumstance. The Secretary of the Finance and Administration Cabinet shall notify the Interim Joint Committee on Appropriations and Revenue, in writing, prior to the approval of an exception to this provision. At least \$50,000,000 of the reduction specified in this provision shall be in personal service contracts.

b. The Secretary of the Finance and Administration Cabinet shall implement actions necessary to reduce the number of sole source contracts and require open competition for all personal service contracts, carefully scrutinize the necessity for all contracts to ensure that services cannot be provided by existing agency staff, and develop a process to evaluate the effectiveness of each contract as to performance and delivery of services. Open competition shall include a reasonable time for bids to be submitted and documentation on how the contract price was determined.

c. Prior to July 1, 2004, the Secretary of the Finance and Administration Cabinet shall not approve or make payment for any personal service contract or memorandum of agreement to a person who was employed in a KRS Chapter 18A unclassified position as of the effective date of this Act. For purposes of this provision, unclassified employees shall be defined as Cabinet Secretaries, Deputy Secretaries, Commissioners, Deputy Commissioners, Executive Directors, Deputy Executive Directors, Division Directors, Principal Assistants, General Counsels, or any other position subject to the provisions of KRS 12.050 or KRS 11.040(1).

d. The Secretary of the Finance and Administration Cabinet, pursuant to KRS 44.045, shall further reduce the number of state vehicles assigned to agencies by an additional 500 vehicles beyond the number of vehicles directed to be reduced under Executive Order 2002-1334.

35. Except in the case of a declared emergency, the Governor, all agency heads, and all other constitutional officers shall not expend or encumber in the aggregate more than 55 percent of the funds appropriated by this Act during the first half of fiscal year 2003-2004.

36. The General Assembly declares that the financial condition of the Commonwealth requires the following fiscal policies to be implemented and administered during the 2002-2004 fiscal biennium:

a. The Transportation Cabinet shall downsize the State Motor Vehicle Fleet by 500 vehicles as set forth in Executive Order 2002-1334. In addition, the Secretary of the Finance and Administration Cabinet and the Secretary of the Transportation Cabinet shall restrict permanently assigned vehicles to only the Court of Justice, Secretaries of the Executive Cabinet, law enforcement, or other public safety purposes.

b. The Finance and Administration Cabinet shall continue actions set forth in Executive Order 2002-1334 to reduce energy costs.

c. All state agencies shall continue to monitor all travel expenditures as set forth in Executive Order 2002-1334. In addition, all state agencies shall utilize state parks or other state facilities to the fullest extent feasible.

d. All state agencies shall continue to adhere to printing guidelines as set forth in Executive Order 2002-1334.

37. The General Assembly declares that the financial condition of the Commonwealth requires the following fiscal policies to be implemented and administered during the 2002-2004 fiscal biennium: Notwithstanding KRS 56.803, 56.813, and 56.823, no state agency shall request any new lease space unless a lower annual cost, including utilities, can be documented. No additional space or lease improvements shall be approved.

38. The General Assembly declares that the financial condition of the Commonwealth requires the following fiscal policies to be implemented and administered during the 2002-2004 fiscal biennium:

a. Notwithstanding KRS 45.760(12) and (14), no state agency shall purchase new equipment or furniture unless the item must be replaced due to damage or loss, unless the Secretary of the Finance and Administration Cabinet approves the equipment or furniture purchase based on documentation of the necessity and impact on government services if the purchase is not made. If a purchase is authorized, the Division of Correctional Industries or the Division of Surplus Property shall be utilized whenever possible.

b. Any equipment or furniture purchase approved by the Secretary of the Finance and Administration Cabinet in excess of \$5,000 shall be reported to the Interim Joint Committee on Appropriations and Revenue.

39. The Secretary of the Finance and Administration Cabinet shall direct all state agencies to review all discretionary expenditures, including but not limited to telecommunications (including cellular telephones and other wireless devices), supplies, commodities, dues, and subscriptions, and implement cost savings actions as may be warranted.

40. Notwithstanding KRS 138.146(4), after June 30, 2003, the compensation allowed shall be equal to \$0.15 face value for each \$3 of cigarette tax evidence purchased at face value.

41. Notwithstanding KRS 139.570, after June 30, 2003, the total reimbursement allowed shall not exceed \$1,500. Notwithstanding KRS 139.250 or 139.700, after the effective date of this Act, separate permit numbers for a taxpayer with different business locations shall not be issued.

42. It is the intent of the General Assembly that the Executive Branch implement appropriate actions necessary to operate within the appropriations authorized in this Act. The General Assembly recognizes that Executive Branch agency heads may determine it to be necessary to modify the actual budget unit expenditure totals within each cabinet and agency in order to best achieve the management savings and fiscal policies required by this Act in order to execute prescribed administrative and program directives. The Secretary of any cabinet, the Commissioner of the Department of Education, and other agency heads are authorized to request revisions in appropriation authority among budget units under their administrative authority for the sole purpose of implementing the directives prescribed in this Act. Prior to requesting any reallocation between appropriation units, the Secretary of any cabinet, the Commissioner of the Department of Education, and other agency heads shall submit a request to the Office of State Budget Director to transfer General Fund authority within their respective cabinet or agency. Such requests shall specify the need for the transfer of the authority. Any transfers made under this section for any cabinet, agency, or the Department of Education shall result in no change to the total amount of General Fund appropriated to budget units within that cabinet or agency. Any transfers made under this section shall be made pursuant to KRS

48.500 and shall be reported, in writing, to the Interim Joint Committee on Appropriations and Revenue at least 30 days prior to the proposed transfer. ~~[No transfer may be authorized to reduce funding for programs or services prescribed in this Act.]~~

43. Notwithstanding 2002 Ky. Acts ch. 172, Part I, Operating Budget, 1., and KRS 6.190 and 6.213, the daily compensation provided by KRS 6.190 and the interim expense allowance provided by KRS 6.213 for members of the General Assembly shall be as authorized for the 2000-2002 biennium and shall be paid as adjusted on January 1, 2003, by the all urban consumer price index (CPI-U), but shall not be adjusted on January 1, 2004, by the all urban consumer price index (CPI-U).

44. In accordance with the provisions of KRS 27A.630 as amended by House Bill 163 of the 2003 Regular Session of the General Assembly, an amount not to exceed \$200,000 from the fee imposed under KRS 27A.630(1) shall be appropriated to the Children's Law Center.

45. Notwithstanding KRS 230.3771, any allocation of commissions on interstate wagering payable to the purse program of the host thoroughbred track from quarter horse races received at the thoroughbred tracks licensed to conduct horse racing in Kentucky shall be allocated to the Kentucky Quarter Horse Purse Program.

46. Notwithstanding KRS 138.510, tracks with an average daily handle of \$1,200,000 or more shall be allowed a tax credit equal to \$12,000 multiplied by the number of racing days at the track for the fiscal year beginning after June 30, 2003, and ending June 30, 2004, if an amount equal to at least 50 percent of the credit is used for capital improvements and at least 50 percent is used for horsemen's incentives. "Capital improvement" means any addition, replacement, or remodeling of a structural unit of the track, including but not limited to the construction of barns used for the track, backstretch facilities for horsemen, paddock facilities, new pari-mutuel and totalizator equipment, new access roads, new parking facilities, the reconstruction, reshaping, or leveling of the racetrack, the installation of permanent new heating or air conditioning, and installations of a permanent nature forming part of the track structure. Fifty percent of the amount of the tax credit for the horsemen's incentives shall be allocated to purses at the track and 50 percent allocated for stabling and transportation costs. The method of disbursal of the stabling and transportation costs shall be agreed upon by the track receiving the tax credit and the horsemen's group or groups contracting with the track. If a track fails to complete a qualifying capital improvement or make qualifying expenditures for horsemen's incentives, the Kentucky Economic Development Finance Authority as created under KRS 154.20-010 shall order the track to repay to the state all or any portion of the amount of the tax credit received by the track. The track receiving the credit shall report quarterly to the Interim Joint Committee on Appropriations and Revenue on the amounts of qualifying capital improvements and expenditures for horsemen's incentives made for which the credit is claimed.

47. Notwithstanding KRS 138.510, for fiscal year 2003-2004, all harness racetracks licensed by the Kentucky Racing Commission shall not be required to pay the excise tax imposed under KRS 138.510(2) and that amount that would have been paid shall be retained by the track to promote and maintain its facilities and its live meet.

PART IV

STATE SALARY/COMPENSATION AND EMPLOYMENT POLICY

1. Notwithstanding KRS 18A.010(2), for the 2002-2004 fiscal biennium, the total number of filled permanent positions in the agencies of the Executive Branch is limited to the number authorized in the enacted State/Executive Budget of the Commonwealth for the 2002-2004 fiscal biennium. The provisions of this section do not apply to the employees of the General Assembly, the Legislative Research Commission, or the Court of Justice.

2. On July 1, 2002, the Personnel Cabinet shall establish a record of budgeted permanent and other equivalent positions based upon the enacted State/Executive Budget of the Commonwealth and any adjustments authorized by provisions in this Act. The total number of filled and vacant positions of full-time, part-time, and interim employees shall not exceed the authorized complements pursuant to this section. When an agency head certifies that an emergency employment situation exists for a limited time within a fiscal year, the State Budget Director may approve, and the Secretary of Personnel may authorize, the employment of individuals in addition to the authorized complement for the duration of the limited time period so authorized within the fiscal year. A copy of records, certifications, and actions authorized in this section shall be provided to the Interim Joint Committee on Appropriations and Revenue on a monthly basis.

3. Notwithstanding KRS 18A.355(1), a cost-of-living adjustment of two and seven-tenths percent is provided in fiscal year 2002-2003 on the base salary or wages of each eligible state employee on their anniversary date. Notwithstanding KRS 18A.355(1) and 151B.035, a cost-of-living adjustment amounting to an annualized value

of \$1,080 is provided in fiscal year 2003-2004 on the base salary or wages of each eligible permanent full-time state employee on their anniversary date. Commencing with an eligible employee's anniversary date, the cost-of-living adjustment shall be disbursed by payroll period in a one-twenty-fourth installment for the duration of the employment. The Secretary of the Personnel Cabinet, in consultation with the State Budget Director, shall determine the pro rata amount of the cost-of-living adjustment to be provided to permanent part-time employees. The cost-of-living adjustment shall be part of the salary or compensation base of the employee. A salary increase shall not be authorized for the following KRS Chapter 18A or 151B unclassified positions after June 30, 2003: Cabinet Secretary, Deputy Secretary, Commissioner, Deputy Commissioner, Executive Director, Deputy Executive Director, Division Director, Principal Assistant, General Counsel, or any other position subject to the provisions of KRS 12.050. No salary increase shall be authorized, after June 30, 2003, for any employee appointed pursuant to KRS 11.040(1).

There is appropriated from the General Fund in fiscal year 2003-2004 \$11,490,000 to the State Salary Compensation Fund in the Personnel Cabinet. The Secretary of the Personnel Cabinet, in consultation with the State Budget Director, shall determine the amount of the funds necessary by budget unit to provide for this cost-of-living adjustment. The State Salary Compensation Fund shall be supplemented by Restricted Agency Funds, Federal Funds, the Road Fund, and other General Fund amounts otherwise appropriated to state agencies in order to provide for this cost-of-living adjustment.

The Secretary of the Personnel Cabinet, upon approval by the State Budget Director, shall notify the Secretary of the Finance and Administration Cabinet of the respective amount of General Fund from the State Salary Compensation Fund to transfer to each affected budget unit and such funds shall be transferred. The Secretary of the Personnel Cabinet and the State Budget Director shall report to the Interim Joint Committee on Appropriations and Revenue regarding the implementation of this provision on a timely basis.

4. Each budget unit with an authorized personnel complement in excess of the number of positions funded in this Act shall submit a plan to the Office of State Budget Director for approval identifying any adequate appropriate funding source prior to filling any positions above the funded number. Upon approval of the State Budget Director, the agency budget may fill the authorized number of positions.

5. The General Assembly declares that the financial condition of the Commonwealth requires the following fiscal policies to be implemented and administered during the 2002-2004 fiscal biennium:

a. For purposes of this section:

(1) "Appointing authority" means the agency head as defined in KRS 18A.005(1) and 151B.010(1);

(2) A "furlough" or "reduction in hours" means that an appointing authority may temporarily reduce the number of hours that an employee is scheduled to work within a pay period if the Budget Reduction Plan or cost savings contemplated in this Act are not achieved. In the case of an employee who is considered "salaried" or "exempt" from the coverage of the Fair Labor Standards Act, 29 U.S.C. sec. 201, et seq., the length of a furlough shall not be less than a work week;

(3) A "lack of funds" means an appointing authority has a current or projected deficiency of funding to maintain current, or to sustain projected, levels of staffing and operations; and

(4) A "lack of work" means an operating authority has a current or projected decrease in the workload, which requires a reduction of current or projected staffing levels.

b. Notwithstanding any other provision of law, an appointing authority, with the approval of the Secretary of the Personnel Cabinet or, in the case of employees governed by KRS Chapter 151B, the State Board for Adult and Technical Education, may temporarily reduce the hours of work assigned to employees due to:

(1) Lack of work;

(2) Seasonal changes in demand for services; or

(3) A current or projected deficiency of funding necessary to maintain current, or to sustain projected, levels of staffing and operations.

c. An employee whose hours of work are temporarily reduced by the appointing authority pursuant to this section shall be notified in writing of the reduced schedule of work, the reasons for the reduction, and the reasons for the employee's selection.

d. Notwithstanding any other provision of law, an employee whose hours of work are temporarily reduced by the appointing authority pursuant to this section:

- (1) Shall remain eligible for state-paid benefits during the temporary reduction of hours; and
- (2) Shall not be entitled to appeal the reduction to the Personnel Board or, in the case of employees governed by KRS Chapter 151B, the State Board for Adult and Technical Education, unless the length of the furlough exceeds ten consecutive working days.

e. Whenever a furlough is necessary, the appointing authority of an agency shall decide in which county or facility and within which classifications the furlough will occur, and the number of employees to be furloughed within each affected county, facility, or classification. The order of furlough shall be based on length of service and relative qualifications to perform the essential functions of any positions that remain in operation within the agency, county, or facility.

f. An employee subject to KRS Chapter 18A who has been furloughed for more than ten consecutive working days, and who believes that the furlough was unwarranted under the provisions of this section or that the appointing authority failed to properly apply the criteria established by this section in determining the order of furlough, may appeal to the Personnel Board within 30 days of the date the notice of furlough was mailed or delivered by the appointing authority. An employee shall not have the right to appear before the appointing authority prior to furlough. In all other respects, the provisions of KRS 18A.095 shall govern appeals based on furloughs.

g. An employee subject to KRS Chapter 151B who has been furloughed more than ten consecutive working days, and who believes that the furlough was unwarranted under the provisions of this section or that the appointing authority failed to properly apply the criteria established in this section in determining the order of furlough, may appeal to the State Board for Adult and Technical Education within 30 days of the date the notice of furlough was mailed or delivered by the appointing authority. An employee shall not have the right to appear before the appointing authority prior to furlough. In all other respects, the provisions of KRS 151B.060 shall govern appeals based on furlough.

h. Notwithstanding any other provision of law, an employee participating in one of the state retirement systems who is furloughed to the extent of working less than 100 hours per month shall, upon return to regular hours, have the right to purchase service credit by paying the employee contributions on the difference between the creditable compensation that would have been paid had the employee not been furloughed and the actual compensation received for the period the employee was placed on furlough and worked less than 100 hours. If the employee elects to purchase service credit, the employing agency shall pay the employer contributions for the period purchased by the employee.

i. The Secretary of the Personnel Cabinet shall promulgate an administrative regulation to implement a furlough program. The administrative regulation shall include a provision authorizing employees to elect to voluntarily participate in a furlough program.

~~[6. The General Assembly declares that the financial condition of the Commonwealth requires the following fiscal policies to be implemented and administered during the 2002-2004 fiscal biennium: Immediately upon the effective date of this Act, the Secretary of the Personnel Cabinet shall effect a hiring freeze for all KRS Chapter 18A positions, including constitutional officers. The Secretary may approve exceptions only if the Secretary determines, in writing, that the position is necessary for public safety, health, emergency, or other extraordinary, critical, or compelling circumstance. The Secretary of the Personnel Cabinet may request the Secretary of the Finance and Administration Cabinet, pursuant to KRS 48.500, to interpret the exceptions to the hiring freeze. The Secretary shall report any positions authorized to be filled, including the written determination, to the Interim Joint Committee on Appropriations and Revenue on the fifteenth day of the month for all positions filled during the previous month. The hiring freeze shall remain in effect until the total number of permanent full-time employees complies with KRS 18A.010(2), but not beyond June 30, 2004, unless extended by action of a future General Assembly. The Department of Veterans' Affairs shall be exempt from the hiring freeze for employees to provide staffing for the Nursing Facilities and field services administered by the Department. The Revenue Cabinet shall be exempt from the hiring freeze as necessary to ensure full staffing for Cabinet operations and the tax compliance initiative funded in this Act. The Department of State Police is exempted from the hiring freeze pertaining to sworn officers, as defined in KRS 16.010, to reach an authorized strength of 1,070. The Department of Fish and Wildlife Resources shall be exempt from the hiring freeze to hire interim employees to staff summer conservation camping programs.]~~

PART V

FUNDS TRANSFER

1. It is the finding of the General Assembly of the Commonwealth of Kentucky that the financial condition of state government requires the following action.

2. Notwithstanding the requirements of the statutes set forth below, there is transferred from the Restricted Funds enumerated below to the General Fund the following amounts in fiscal year 2002-2003 and fiscal year 2003-2004.

	2002-03	2003-04
A. GOVERNMENT OPERATIONS		
1. Office of the Governor	250,000	
Agency Revenue Funds		
2. Office of the Governor		271,900
(KRS 132.020(9))		
3. Office of State Budget Director	550,000	
Agency Revenue Funds		
4. Governor's Office for Technology	377,300	
Other Special Revenue Funds		
5. Department of Veterans' Affairs	830,300	
Agency Revenue Funds		
6. Governor's Office of Early Childhood	1,861,800	
Development		
(KRS 200.151)		
7. Kentucky Infrastructure Authority	1,000,000	1,000,000
Other Special Revenue Funds		
(KRS 224A.112)		
8. Governor's Office of Agricultural Policy	611,200	513,300
Tobacco Funds		
(KRS 248.703(2)(b)2.)		
9. KY Agency for Substance Abuse	1,500,000	1,500,000
(KRS 194A.055)		
10. Secretary of State	200,000	
(KRS 14.140)		
11. Secretary of State	2,000	
Trust Funds		
12. Board of Elections	23,300	
Other Special Revenue Funds		
13. Attorney General	562,500	
Agency Revenue Funds		
14. Attorney General	16,800	
Other Special Revenue Funds		
15. County Attorneys	28,900	

	Agency Revenue Funds		
16.	Auditor of Public Accounts	300,000	
	Agency Revenue Funds		
17.	Military Affairs	500,000	
	Agency Revenue Funds		
18.	Local Government Economic Development Fund (KRS 42.4592)		10,663,500
19.	Commission on Human Rights	1,500	
	Agency Revenue Funds		
20.	Registry of Election Finance Election Campaign Fund (KRS 121A.020)		469,800
21.	Board of Accountancy (KRS 325.250)	300,000	
22.	Board of Architects (KRS Chapter 323)	60,900	
23.	Board of Auctioneers (KRS 330.050 and 330.192)	476,400	
24.	Board of Chiropractic Examiners (KRS 312.019)	49,500	
25.	Board of Dentistry (KRS 313.350)	56,000	
26.	Board of Dietitians and Nutritionists (KRS 310.041)	79,900	
27.	Board of Embalmers and Funeral Directors (KRS Chapter 316)	74,000	
28.	Board of Engineers and Land Surveyors (KRS 322.420)	544,700	
29.	Board of Geologists (KRS 322A.050)	40,000	
30.	Board of Landscape Architects (KRS Chapter 323)	14,000	
31.	Board of Marriage and Family Therapists (KRS 335.342)	8,600	
32.	Board of Medical Licensure (KRS 311.610)	794,000	
33.	Board of Nursing	1,574,700	

	(KRS 314.027 and 314.161)		
34.	Board of Occupational Therapy (KRS 319A.050)	168,600	
35.	Board of Ophthalmic Dispensers (KRS 326.120)	14,500	
36.	Board of Optometric Examiners (KRS 320.360)	32,600	
37.	Board of Pharmacy (KRS 315.195)	811,700	
38.	Board of Physical Therapy (KRS 327.080)	77,400	
39.	Board of Podiatry (KRS 311.450)	65,500	
40.	Board of Professional Counselors (KRS 335.520)	47,500	
41.	Board of Proprietary Education (KRS 165A.380)	263,200	
42.	Real Estate Appraisers Board (KRS 324A.065)	206,600	
43.	Real Estate Commission (KRS 324.286 and 324.410)	853,600	
44.	Board of Respiratory Care (KRS 314A.215)	3,600	
45.	Board of Social Workers (KRS 335.140)	163,400	
46.	Board of Speech Pathologists and Audiologists (KRS 334A.120)	68,100	
47.	Board of Veterinary Examiners (KRS 321.320)	82,900	
B.	CABINET FOR ECONOMIC DEVELOPMENT		
1.	Kentucky Economic Development Finance Authority (KRS 154.20-010 to 154.20-150)	13,327,000	16,895,000
2.	Financial Incentives Other Special Revenue Funds	6,600	
3.	Office of the New Economy (Part I, 31.a. and KRS 164.6019, 164.6021, 164.6027, 164.6029, 164.6035, and 164.6037)	1,482,000	

C. EDUCATION

1.	Operations and Support Services	50,000	
	Agency Revenue Funds		
2.	School Districts Flexible	14,000,000	14,000,000
	Spending Accounts		
3.	Learning and Results Services – Kentucky	10,955,200	
	Successful School Trust Fund		
	(KRS 157.067)		

D. EDUCATION, ARTS, AND HUMANITIES CABINET

1.	Kentucky Arts Council	57,200	
	(KRS 153.210 to 153.235)		
2.	Libraries and Archives - General Operations	33,900	
	Agency Revenue Funds		
3.	Libraries and Archives - Direct Local Aid	14,400	
	Agency Revenue Funds		

E. CABINET FOR FAMILIES AND CHILDREN

1.	Community Based Services	15,000,000	
	Agency Revenue Funds		

F. FINANCE AND ADMINISTRATION CABINET

1.	General Administration	340,600	
	Asbestos Litigation Fund		
2.	General Administration	184,900	
	Other Special Revenue Funds		
3.	General Administration	508,700	
	Other Expendable Trust Funds		
4.	Office of the Controller	2,847,900	
	Other Special Revenue Funds		
5.	Debt Service	12,300	
	(KRS 248.655)		
6.	Capital Construction Investment Income	6,311,100	4,000,000
7.	Capital Construction and Equipment	16,928,000	
	Purchase Contingency Fund		
	(KRS 45.770)		
8.	Emergency Repair, Maintenance, and	5,500,000	
	Replacement Fund		
	(KRS 45.780)		
9.	Statewide Deferred Maintenance Fund	1,000,000	
10.	Capital Construction Surplus Account	2,259,000	

	(KRS 45.775)	
11.	Technology Trust Fund (1998 Ky. Acts ch. 615, Part X, Sec. 5, II., 5)	12,743,800
12.	Tobacco Settlement - Phase I - Excess Fiscal Year 2001-2002 Payments Above Budgeted - Rural Development Trust Fund (KRS 248.654)	2,023,700
13.	Tobacco Settlement - Phase I - Excess Fiscal Year 2001-2002 Payments Above Budgeted - Early Childhood Development Trust Fund (KRS 200.151 and 248.654)	1,556,700
14.	Tobacco Settlement - Phase I - Excess Fiscal Year 2001-2002 Payments Above Budgeted - Health Care Improvement Trust Fund (KRS 194A.055 and 248.654)	1,556,700
15.	Rural Development Trust Fund Interest Income (KRS 248.654 and 248.655)	973,300
16.	Early Childhood Development Trust Fund Interest Income (KRS 200.151 and 248.654)	163,600
17.	Health Care Improvement Trust Fund Interest Income (KRS 194A.055 and 248.655)	145,700
18.	Red Fox Golf Course (1998 Ky. Acts ch. 615, Part X, Sec. 5, IV., 77)	2,016,700
G.	CABINET FOR HEALTH SERVICES	
1.	Public Health (KRS 200.151)	299,000
2.	Mental Health/Mental Retardation (KRS 200.151)	18,500
3.	Children With Special Health Care Needs (KRS 200.151)	131,700
4.	Aging Services Other Special Revenue Funds	50,000
5.	Administrative Support Other Special Revenue Funds	238,000

H. JUSTICE CABINET

1.	State Police	1,250,000	
	Agency Revenue Funds		
2.	Criminal Justice Training	3,600,000	
	Kentucky Law Enforcement Foundation		
	Program Fund		
	(KRS 15.430 and 136.392(2))		
3.	Juvenile Justice	6,000,000	4,000,000
	Agency Revenue Funds		
4.	Juvenile Justice	39,600	
	Other Special Revenue Funds		

I. LABOR CABINET

1.	General Administration and Support	250,000	
	Agency Revenue Funds		
2.	Workers' Compensation Funding Commission	4,750,000	
	Agency Revenue Funds		
	(KRS 342.122 and 342.1223)		

J. NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET

1.	Environmental Protection	1,100,000	
	Agency Revenue Funds		
2.	Environmental Protection		500,000
	Waste Tire Trust Fund		
	(KRS 224.50-870)		
3.	Natural Resources	900,000	
	Agency Revenue Funds		
4.	Surface Mining Reclamation and	1,500,000	
	Enforcement		
	Agency Revenue Funds		
5.	Surface Mining Reclamation and	3,000,000	
	Enforcement - Bond Pool Fund		
	(KRS 350.700)		
6.	Kentucky Pride Trust Fund		2,468,000
	(KRS 224.43-505)		

K. PERSONNEL CABINET

1.	Flexible Spending Account	13,000,000	1,326,000
	(KRS 18A.225(2)(g))		
2.	Health Purchasing Alliance Refund	3,630,200	

	(KRS 304.17A-071)	
3.	State Employees Workers' Compensation Reserve	4,000,000
	(KRS 18A.370 to 18A.385)	
4.	Personnel - General Operations Trust Funds	347,600
5.	General Operations Agency Revenue Funds	50,000
6.	General Operations Insurance Administration Funds	60,000
L.	POSTSECONDARY EDUCATION	
1.	Council on Postsecondary Education Agency Revenue Funds	92,100
2.	Council on Postsecondary Education Student Financial Aid and Advancement Trust Fund	406,200
	(KRS 164.7911 and 164.7927)	
3.	Council on Postsecondary Education Adult Education and Literacy Funding Program	245,000
	(KRS 164.041)	
4.	Council on Postsecondary Education University Equine Program Trust Fund	48,500
	(KRS 138.510(6))	
5.	Council on Postsecondary Education Strategic Investment and Incentive Funding Program Trust Fund - Interest Income	2,200,000
	(2000 Ky. Acts ch. 549, Part I, L., 56)	
6.	Kentucky Higher Education Assistance Authority	193,000
	(KRS 200.151)	
7.	Kentucky Higher Education Assistance Authority	450,000
	(KRS 164A.010 to 164A.240)	
8.	Kentucky Community and Technical College System	1,400,000
	Kentucky Firefighters Foundation Program Fund	
	(KRS 95A.220, 95A.262, and 136.392(2))	

M. PUBLIC PROTECTION AND
REGULATION CABINET

1.	Alcoholic Beverage Control (KRS 243.025)	2,250,000	250,000
2.	Financial Institutions (KRS 287.485)	3,700,000	2,000,000
3.	Insurance (KRS 304.2-400)	6,000,000	6,000,000
4.	Insurance Fire and Tornado Insurance Fund (KRS 56.095, 56.150, and 56.180)	500,000	500,000
5.	Insurance Kentucky Access (KRS 304.17B-001 to 304.17B-031)	56,000,000	
6.	Secretary - General Operations Agency Revenue Funds	300,000	
7.	Secretary - Petroleum Storage Tank Environmental Assurance Fund (KRS 224.60-100 to 224.60-160)	74,100,000	26,500,000

N. TOURISM DEVELOPMENT CABINET

1.	Kentucky State Fair Board Freedom Hall Portable Trailers (2000 Ky. Acts ch. 549, Part II, Sec. O., 2., c)	300,000	
2.	Kentucky State Fair Board Agency Revenue Funds	1,500,000	2,413,500

O. TRANSPORTATION CABINET

1.	Air Transportation Kentucky Aviation Economic Development Fund (KRS 183.525(3), (4), and (5))	2,900,000	
2.	General Administration and Support Fleet Management Fund	6,000,000	

P. WORKFORCE DEVELOPMENT CABINET

1.	Technical Education Agency Revenue Funds	100,000	
2.	Employment Services Unemployment Insurance Penalty and	2,250,000	

Interest

(KRS 341.835)

TOTAL

*327,195,900

*95,271,000

PART VI

GENERAL FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130 and 48.600, a General Fund Budget Reduction Plan is enacted for state government in the event of an actual or projected deficit in estimated General Fund revenue receipts of \$6,989,500,000 in fiscal year 2002-2003 and \$7,168,700,000 in fiscal year 2003-2004 as modified by related Acts and actions of the General Assembly in an extraordinary or regular session. Direct services, obligations essential to the minimum level of constitutional functions, and other items that may be specified in this Act, are exempt from the requirements of this Plan. Each branch head shall prepare a specific plan to address a proportionate share of the General Fund revenue shortfall applicable to the respective branch. No budget revision action shall be taken by a branch head in excess of the actual or projected deficit.

The Governor, the Chief Justice, and the Legislative Research Commission shall direct and implement reductions in allotments and appropriations only for their respective branch budget units as may be necessary as well as take other measures which shall be consistent with the provisions of this Part and general branch budget bills.

In the event of a revenue shortfall under the provisions of KRS 48.120, General Fund budget reduction actions shall be implemented in the following sequence:

(1) The Local Government Economic Assistance and the Local Government Economic Development Funds shall be adjusted by the Secretary of the Finance and Administration Cabinet to equal revised estimates of receipts pursuant to KRS 42.4582 as modified by the provisions of this Act.

(2) Transfers of excess unappropriated and unbudgeted Restricted Funds other than fiduciary funds shall be applied as determined by the head of each branch for its respective budget units.

(3) Excess General Fund appropriations which accrue as a result of personnel vacancies and turnover, and reduced requirements for operating expenses, grants, and capital outlay shall be determined and applied by the heads of the executive, judicial, and legislative departments of state government for their respective branches. The branch heads shall certify the available amounts which shall be applied to budget units within the respective branches and shall promptly transmit the certification to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission. The Secretary of the Finance and Administration Cabinet shall execute the certified actions as transmitted by the branch heads.

Branch heads shall take care, by their respective actions, to protect, preserve, and advance the fundamental health, safety, legal and social welfare, and educational well-being of the citizens of the Commonwealth.

(4) Funds available in the Budget Reserve Trust Fund shall be applied in an amount not to exceed 25 percent of the trust fund balance in fiscal year 2002-2003 and 50 percent of the trust fund balance in fiscal year 2003-2004.

(5) Notwithstanding the provisions of KRS 48.130 and 48.600, if the actions contained in subsections (1) to (4) of this section are insufficient to eliminate an actual or projected revenue shortfall in the enacted General Fund revenue receipts, then the Governor is empowered and directed to take necessary actions with respect to the Executive Branch budget units to balance the budget by such actions conforming with the criteria expressed in the preceding subsection.

PART VII

ROAD FUND BUDGET REDUCTION PLAN

There is established a Road Fund Budget Reduction Plan for fiscal year 2002-2003 and fiscal year 2003-2004. Notwithstanding KRS 48.130, in the event of an actual or projected shortfall in estimated Road Fund revenue receipts of \$1,121,129,400 in fiscal year 2002-2003 and \$1,139,210,500 in fiscal year 2003-2004 as determined by KRS 48.120(3), the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service. No budget revision action shall be taken in excess of the actual or projected deficit.

PART VIII

ROAD FUND SURPLUS EXPENDITURE PLAN

Notwithstanding KRS 48.140 and pursuant to KRS 48.710, there is established a plan of expenditures from the Road Fund Surplus Account. All moneys in the Road Fund Surplus Account shall be deposited in the State Construction Account and utilized to support projects in the 2002-2004 Biennial Highway Construction Program.

PART IX

SPECIAL PROVISIONS

GOVERNMENT OPERATIONS

1. GOVERNOR'S OFFICE FOR TECHNOLOGY

a. Office of Statewide 911 Coordination: The Office of Statewide 911 Coordination is established within the Governor's Office for Technology. The Office of Statewide 911 Coordination shall have the responsibility for monitoring, enforcing, and coordinating 911 and enhanced 911 system compliance and implementation statewide. The office shall include a statewide 911 coordinator along with appropriate staff to accomplish the objectives as stated in this section. The office shall provide education, training, and technical assistance for public safety answering points and private telephone system owners and operators. The 911 coordinator shall collect data from public safety answering points and private telephone system owners and operators and shall make a report to the Legislative Research Commission in August of each year preceding the regular session. The report shall contain recommendations concerning necessary modifications to compliance requirements occasioned by technological and other advances or changes in telephone system equipment.

b. Electronic Health Network Feasibility Study: The Legislative Research Commission shall direct the Interim Joint Committee on Health and Welfare to study the feasibility of implementing an electronic health network in this Commonwealth using federal and voluntarily contributed private funds. The committee shall report its findings to the Legislative Research Commission no later than December 1, 2003.

c. CMRS Board: Notwithstanding KRS 65.7639, no information provided to the CMRS Board under KRS 65.7639 shall be disclosed 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.

2. DEPARTMENT OF VETERANS' AFFAIRS

a. Weekend and Holiday Premium Pay Incentive: The Kentucky Veterans' Center at Wilmore is authorized to continue the weekend and holiday premium pay incentive component of the Personnel Pilot Program for the fiscal biennium 2002-2004.

b. General Fund Operating Support: Notwithstanding KRS 45.229, the unexpended balance of the General Fund appropriation provided to the Eastern Kentucky Veterans' Center, the Western Kentucky Veterans' Center, and the Thompson/Hood Veterans' Center in fiscal year 2001-2002 shall not lapse and shall be carried forward into fiscal year 2002-2003; the unexpended balance of the General Fund appropriation in fiscal year 2002-2003 shall not lapse and shall be carried forward into fiscal year 2003-2004.

c. Congressional Medal of Honor Recipients: Travel and Per Diem: The Commissioner of the Department of Veterans' Affairs may approve travel and per diem expenses incurred when Kentucky residents who have been awarded the Congressional Medal of Honor attend veterans, military, or memorial events in the Commonwealth of Kentucky.

d. Personnel: The Kentucky Department of Veterans' Affairs (KDVA) shall be exempt from the personnel reduction target set forth in Executive Order 2002-1334. Furthermore, KDVA's personnel cap shall be increased by 30 full-time employees to support full operation of its Nursing Homes and Field Services.

3. TREASURY

a. Kentucky's Affordable Prepaid Tuition (KAPT): As provided in Part IX, Special Provisions, Postsecondary Education, 46. Kentucky Higher Education Assistance Authority (KHEAA), the KAPT program is transferred to Postsecondary Education, KHEAA.

4. ATTORNEY GENERAL

a. Deputy and Assistant Attorneys General Salaries: Notwithstanding KRS 15.100, the Attorney General may set the salary for the deputy attorney general and the salary for the two assistant deputy attorneys general at a rate less than that required in KRS 15.100.

b. Health Care Rate Intervention: In addition to such funds as may be appropriated, this Office may request from the Finance and Administration Cabinet, as a necessary government expense, such funds as may be necessary for expert witnesses pursuant to KRS 304.17A-095. The Finance and Administration Cabinet shall approve up to \$175,000 for the 2002-2004 biennium for this purpose to the Office of the Attorney General. The Department of Insurance shall provide the Office of the Attorney General any available information to assist in the preparation of a rate hearing pursuant to KRS 304.17A-095.

c. Annual and Sick Leave Service Credit: Notwithstanding any statutory or regulatory restrictions to the contrary, any former employee of the Unified Prosecutorial System who has been appointed to a permanent full-time position under KRS Chapter 18A shall be credited annual and sick leave based on service credited under the Kentucky Retirement System solely for the purpose of computation of sick and annual leave. This provision shall only apply to any new appointment or current employee as of July 1, 1998.

d. Child Sexual Abuse Exams: Notwithstanding KRS 186.1867, the Transportation Cabinet shall review the costs related to the distribution of child victim's license plates. Any revenue received from the sale or renewal of these plates in excess of actual costs shall be transferred to the Child Victims Trust Fund on an annual basis.

e. Legal Services Contracts: The Attorney General may present proposals to state agencies specifying legal work that is presently accomplished through Personal Service Contracts that indicate the Office of the Attorney General's capacity to perform the work at a lesser cost. State agencies may agree to make arrangements with the Attorney General to perform the legal work and compensate the Attorney General for the legal services.

f. Public Funds: Notwithstanding KRS 48.005(5)(b), up to \$2,200,000 in funds collected pursuant to KRS 48.005(5) shall be deposited in an off-budget account and transferred to the Historic Cemetery Preservation Program Fund in accordance with Part IX, Special Provisions, Government Operations, 9.b., of this Act. Notwithstanding KRS 48.005(5)(b), any amounts in excess of \$2,200,000 shall be deposited in the General Fund Surplus Account. The Attorney General shall provide notice to the Governor's Office for Policy and Management and the Legislative Research Commission of the nature of any funds deposited in this account and no funds shall be disbursed without a specific legislative appropriation by the General Assembly while in a regular or special legislative session. This provision shall not apply to any funds or other assets recovered by judgment, settlement, or legal action by or on behalf of the Commonwealth, or other actions filed by a duly elected statewide public official, if the recovery sought and received is for specific individuals, identified as parties to the action, or persons for whom the recovery is received if identified specifically. Identification includes but is not limited to identification either by individual Social Security numbers, by other identifying number, or by proper name.

5. UNIFIED PROSECUTORIAL SYSTEM

a. Prosecutors Advisory Council Administrative Functions: The Prosecutors Advisory Council shall approve compensation for employees of the Unified Prosecutorial System subject to the appropriation in this Act.

b. Rape Victim Assistance Fund: Notwithstanding KRS 216B.400(8), the Rape Victim Assistance Fund and the responsibility for claims payments made from the fund shall be transferred to the Board of Claims/Crime Victims' Compensation Board in fiscal year 2003-2004.

6. AUDITOR OF PUBLIC ACCOUNTS

a. State Agencies Audit Services Contracts: No state agency shall enter into any contract with a nongovernmental entity for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within 30 days of receipt of a written request. The agency requesting the audit shall furnish the Auditor of Public Accounts a comprehensive statement of the scope and nature of the proposed audit.

b. Audit Records and Status Reports: The Auditor of Public Accounts shall report in writing each 60 days to the Interim Joint Committee on Appropriations and Revenue the progress of all state audits, together with copies of all completed audits. The auditor shall maintain a record of all time and expenses for each audit or investigation.

c. Charges for Federal, State, and Local Audits: Any additional expense incurred by the Auditor of Public Accounts for auditing Federal Funds, when the audits are mandated by a cognizant federal audit agency, shall be charged to the audited agency when the costs may be charged against Federal Funds. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the

operation of the office. The Auditor shall maintain a record of all costs and expenditures associated with this provision.

Each quarter, the Auditor of Public Accounts shall notify the Finance and Administration Cabinet concerning the collection status of the fees charged for county audits. If a county government is delinquent in its payment to the Auditor of Public Accounts, the Finance and Administration Cabinet shall withhold any moneys due that county government for the term of 120 days or until the Auditor of Public Accounts has received full payment from the county. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operations of the office.

The "Single Audit Act of 1984" and the "Single Audit Act Amendments of 1996" (OMB Circular No. A-133) have changed the method by which federal moneys to state agencies are audited. As a result of this federal change, the Auditor of Public Accounts is budgeted to receive additional agency receipts which shall be allotted by the Governor's Office for Policy and Management for programs authorized in the enacted budget for the Auditor of Public Accounts by the 2003 General Assembly, subject to the conditions and procedures provided in this Act.

Any expenses incurred by the Auditor of Public Accounts for auditing a state or local government agency or other entity upon its request, or for performing an audit required by statute unless the audit is required by those standards governing the audit of the Commonwealth's Comprehensive Financial Report or the provisions contained in the "Single Audit Act of 1984" and the "Single Audit Act Amendments of 1996," shall be charged to the agency or entity audited.

Any expense incurred by the Auditor of Public Accounts for auditing individual governmental entities shall be charged to the agency receiving audit services when expenses are mutually agreed upon or when a legislatively mandated study by the Auditor of Public Accounts has determined the need for the audit.

7. DEPARTMENT OF AGRICULTURE

a. Agriculture - PACE Program: The PACE board may contract directly with land surveyors, real estate appraisers, and other licensed professionals as necessary.

b. Reauthorization of the Kentucky Aquaculture Task Force: The Kentucky Aquaculture Task Force is reauthorized and attached to the Department of Agriculture for administrative purposes. The membership, duties, and responsibilities of the Task Force shall be identical to those enacted by the 2000 Kentucky General Assembly, 2000 Ky. Acts ch. 77, except the Task Force shall develop an interim report by September 1, 2002, and a final report by September 1, 2003, with respect to the implementation of the State Aquaculture Plan recommendations and other recommendations that the Task Force may support relating to the aquaculture industry in the Commonwealth. The reports shall be submitted to the Governor and to the Legislative Research Commission.

Notwithstanding the provisions of this section, the Legislative Research Commission shall have the authority to alternatively assign the directives identified in this section to an interim joint committee or subcommittee thereof, and to designate a study completion date. In the event the Legislative Research Commission assigns the responsibilities and duties relating to the Kentucky Aquaculture Task Force to an interim joint committee or subcommittee thereof, any funds remaining from the amounts provided in Part I, Operating Budget, of this Act for the purpose of preparing the reports to be completed by the Task Force shall be transferred to the Legislative Research Commission.

8. PERSONNEL BOARD

a. Administrative Hearings Notice: Notwithstanding KRS 13B.050(2), the Personnel Board shall send notices of administrative hearings by first-class mail.

9. LOCAL GOVERNMENT

a. Flood Control Matching Fund Project Review: The Department for Local Government shall transmit a copy of the application for a flood-related project to be funded from the flood control matching fund to the Natural Resources and Environmental Protection Cabinet with a request for a review of the project pursuant to KRS Chapter 151.

b. Cemetery Preservation: Restricted Funds totaling \$2,200,000 attributable to funds collected pursuant to KRS 48.005(5) shall be transferred to the County Cemetery Fund pursuant to KRS 67.682. An amount of \$1,450,000 is appropriated from these funds in fiscal year 2002-2003, with the remaining \$750,000 appropriated in fiscal year 2003-2004. Restricted funds transferred to the County Cemetery Fund shall not lapse and shall carry forward from each fiscal year to the succeeding fiscal year. Included within the above appropriated amounts is \$1,100,000 to be made available to the Louisville/Jefferson County Cemetery Preservation Initiative prior to June 30, 2004, subject to a

one-to-one dollar local cash match certified to the Department for Local Government. Also included within the above appropriated amounts is \$20,000 in each fiscal year for grant funds to the Fayette County African Cemetery #2, subject to a one-to-one dollar local cash match certified to the Department for Local Government. The remaining \$1,060,000 of these restricted funds shall be made available for grants for cemetery preservation initiatives, subject to a one-to-one dollar local cash match certified to the Department for Local Government. Grant applications may be made by an agency of the Commonwealth; a city, county, urban-county, charter county, or consolidated local government; a not-for-profit cemetery; a not-for-profit historical or genealogical organization; or a not-for-profit local community or civic group. If the Louisville/Jefferson County Cemetery Preservation Initiative fails to raise local cash matching resources, funds not appropriated to it shall be retained to the credit of the County Cemetery Fund and made available for grants for cemetery preservation initiatives, in addition to those funds otherwise appropriated for that purpose under this paragraph. Notwithstanding KRS 42.500, the Department for Local Government may expend interest earnings from the County Cemetery Fund for program administration upon application to and approval from the State Budget Director whose approval shall be reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.630. Funds credited to the County Cemetery Fund shall be invested by the Finance and Administration Cabinet according to existing law.

10. EDUCATION PROFESSIONAL STANDARDS BOARD

a. Employment of Leadership Personnel: Notwithstanding KRS 18A.005 to 18A.200, the Education Professional Standards Board shall have the sole authority to determine the employees of the Education Professional Standards Board staff who are exempt from the classified service and to set their compensation comparable to the competitive market.

b. Teacher Education Model Program: Funding in the amount of \$2,000,000 shall be provided during fiscal year 2002-2003 for a Teacher Education Model Program to be administered by the Education Professional Standards Board. The purposes of the program shall be to:

(1) (a) Support model teacher education programs that demonstrate effective research-based instruction and assessment practices, involve the entire university community in teacher education, demonstrate collaboration and partnerships between elementary, secondary, and postsecondary education, facilitate the recruitment and retention of talented people in the teaching profession through innovative, nontraditional programs and multiple certification routes, require high-quality, extensive field experiences and practicums in addition to ongoing classroom observations as an essential element at all stages of the Teacher Preparation Program, and raise the existing and prospective teachers' professional knowledge in content and pedagogy.

(b) Provide incentives to teacher education and other university faculty to increase service activities beyond the usual field observations and supervision of teacher education students to include mentoring and guiding of prospective teacher education students, of beginning teachers in the induction stage, and of experienced teachers in continuous improvement activities; conducting training and professional development activities which may include funding stipends to teachers for participation; providing funding and supervision for paid sabbaticals for a selected number of local school district teachers; assisting teachers with evaluation and revision of curricula and instruction to improve student achievement; and other innovative strategies to improve the quality of teaching.

(2) By October 15, 2002, the Board shall identify two or more public or independent teacher education institutions or consortia of institutions that meet the criteria in subsection (1)(a) of this section and are eligible to make applications for funds under this section.

(3) By November 1, 2002, the Board shall establish the grant request process, the time frame, and the system for determining the size of the grants. In determining the size of the grants, the Board shall consider the scope of the Teacher Education Program, the number of undergraduate and graduate students enrolled, the number of teacher and administrator interns, the extent of university-wide faculty involvement in induction and in-service activities with teachers in local school districts, and other data as deemed appropriate by the Board. By January 1, 2003, all eligible institutions shall be notified of the request for proposals.

(4) The Board shall make the grant awards prior to the start of the 2003-2004 fiscal year.

11. KENTUCKY RIVER AUTHORITY

a. Water Withdrawal Fees: The water withdrawal fees imposed by the Kentucky River Authority shall not be subject to state and local taxes. Notwithstanding that portion of the provision of KRS 151.710(10) that directs the Finance and Administration Cabinet to provide administrative services for the Kentucky River Authority, Tier I water

withdrawal fees shall be used to support the operations of the Authority and for contractual services for water supply and quality studies.

ECONOMIC DEVELOPMENT

12. OFFICE OF THE SECRETARY

a. New Economy: Funding for the New Economy: Notwithstanding Subtitle 20 of KRS Chapter 154, interest income earned on balances in the High-Technology Construction Pool and the High-Technology Investment Pool shall be used to support the Office of the New Economy within the Department of Economic Development. Upon the recommendation of the Commissioner, these funds are authorized and appropriated to fund High-Technology Construction/Investment Pool projects. Loan repayments received by the High-Technology Construction and High-Technology Investment Pools are appropriated in addition to amounts specified in Part II, Capital Projects Budget.

Notwithstanding KRS 164.6017, the Kentucky Science and Technology Corporation shall submit an annual plan dealing with the allocation of funds from the Science and Technology Funding Program, excluding funds for the Knowledge-Based Economy Academic Programs, for review and approval by the Council on Postsecondary Education and the Office of the New Economy prior to the Council on Postsecondary Education executing a contract with the Corporation to administer Science and Technology Funding Programs.

b. New Economy Women and Minority Programs: The Commissioner of the Office for the New Economy shall develop a New Economy Role Model Program and Entrepreneurial Educational Program that will encourage the participation of women and minorities in the knowledge-based economy. Such activity shall be reported within the Annual Report to the Governor and General Assembly as prescribed by KRS 164.6015(9)(d).

13. FINANCIAL INCENTIVES

The total amount of Kentucky Investment Fund Act (KIFA) tax credits available to any single investment fund shall not exceed, in aggregate, \$1,000,000 for all investors and all taxable years. The total Kentucky Investment Fund Act (KIFA) tax credits available for all investors in all investment funds shall not exceed \$3,000,000 per fiscal year.

DEPARTMENT OF EDUCATION

14. SUPPORT EDUCATION EXCELLENCE IN KENTUCKY (SEEK) PROGRAM

a. Allocation of Support Education Excellence in Kentucky Funds: Notwithstanding KRS 157.360(2)(c), the General Fund appropriations to the base Support Education Excellence in Kentucky (SEEK) Program are intended to provide a base guarantee of \$3,081 per student in average daily attendance in fiscal year 2002-2003 and \$3,191 per student in average daily attendance in fiscal year 2003-2004 as well as to meet the other requirements of KRS 157.360.

Nothing in this legislation shall be construed as prohibiting the contracting out of pupil transportation services.

Funds appropriated to the Support Education Excellence in Kentucky Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. The total appropriation for the Support Education Excellence in Kentucky (SEEK) Program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 to 157.440. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, upon the written request of the Commissioner of Education and with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the cited sections of the Kentucky Revised Statutes, but any increase of the total appropriation to the Support Education Excellence in Kentucky Program is subject to Part III, General Provisions, of this Act, and the provisions of KRS Chapter 48. If funds appropriated to the Support Education Excellence in Kentucky Program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, allotments to local school districts may be reduced in accordance with KRS 157.430.

b. Certified Staff Cost-of-Living Adjustments: Notwithstanding KRS 157.420(2), all certified staff employed by local boards of education shall receive a cost-of-living adjustment totaling at least \$1,080 in fiscal year 2003-2004. The cost-of-living adjustment shall be at least \$1,080 for every certified staff member employed by a local board of education regardless of the individual length of the staff member's employment contract or annual base salary. Certified staff employed by a local board of education that work less than full-time shall receive a pro rata share of the \$1,080 cost-of-living adjustment based on terms of their employment. The cost-of-living adjustment

totaling at least \$1,080 in fiscal year 2003-2004 shall be in addition to the normal rank and step increases attained by certified personnel employed in local school districts.

c. Final SEEK Calculation: Notwithstanding KRS 157.410, on or before March 1 of each year the chief state school officer shall determine the exact amount of the public common school fund to which each district is entitled and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of final calculation and for each successive month thereafter.

d. Local Revenue: For calendar year 2003, a district board of education may levy a general rate that will produce revenue from real property, exclusive of revenue from new property that is up to four percent over the amount of the revenue produced by the compensating rate as defined in KRS 132.010.

e. SEEK Adjustment Factors: Funds allocated for the SEEK base and its adjustment factors that are not needed for the base or a particular adjustment factor may be allocated to other adjustment factors, if funds for that adjustment factor are not sufficient.

f. Use of Local District Capital Outlay Funds: Notwithstanding KRS 157.420(4) and (6), a local district may submit a request to the Commissioner of Education to use capital outlay funds for maintenance expenditures or for the purchase of property insurance in fiscal year 2002-2003 and fiscal year 2003-2004 without forfeiture of the district's participation in the School Facility Construction Commission.

g. Equalized Growth Nickel: Notwithstanding KRS 157.621(1), local school districts shall receive state equalization facilities funding on the existing additional tax levy pursuant to KRS 157.621, if they have: (1) Previously levied the additional tax pursuant to KRS 157.621 for debt service and new facilities prior to fiscal year 2003-2004; (2) Levied the five cents (\$0.05) under the provisions of KRS 157.440; (3) Met the growth requirements in KRS 157.621(2) in fiscal year 2002-2003; and (4) Levied an additional nickel tax pursuant to KRS 157.621 in addition to (1) and (2) of this paragraph.

h. Classified Staff Cost-of-Living Adjustments: The General Assembly directs local school districts to provide not less than a two and seven-tenths percent cost-of-living adjustment to classified employees in fiscal year 2003-2004.

15. EXECUTIVE POLICY AND MANAGEMENT

a. Employment of Personnel: Notwithstanding KRS 18A.115, the Department of Education may fill, through memoranda of agreement, not more than 50 percent of its existing authorized positions below the division director level with individuals employed as school administrators and educators in Kentucky.

b. Employment of Leadership Personnel: Notwithstanding KRS 18A.005 to 18A.200, the Kentucky Board of Education shall continue to have sole authority to determine the employees of the Department of Education who are exempt from the classified service and to set their compensation comparable to the competitive market.

c. Medicaid Reimbursement Funds: The Department of Education is authorized to implement a strategy, in conjunction with local school districts and the Department for Medicaid Services within the Cabinet for Health Services, to maximize federal reimbursement under the Medicaid Program for Medicaid eligible administrative functions performed by elementary and secondary school faculty, staff, and administrators. Any increase in federal reimbursement attributable to such a strategy shall not be expended by the Department of Education or Cabinet for Health Services, Medicaid Services prior to review and approval by the Governor's Office of Policy and Management and submission to the Interim Joint Committee on Appropriations and Revenue at least 60 days prior to any distribution of federal funds.

d. Elementary Arts and Language Education: The Department of Education shall establish a program that promotes the integration of the arts and foreign languages in the elementary school program. A school must submit any application through the district superintendent, with the agreement of the school council or of the principal, if a council does not exist. Out of any moneys made available for this purpose in fiscal year 2003-2004, the department shall award a grant to at least one school per region based on the quality of the application in meeting the criteria established in this section. Special consideration shall be given but not limited to a school that does not have an existing comprehensive arts and foreign language program.

School programs under this section must include, at a minimum, the following components: (1) Instruction in each of the four disciplines of dance, drama, music, and the visual arts that includes the core content skills and knowledge taught in a sequential manner and includes all students in the elementary school; (2) Intense instruction in at least one foreign language and culture taught and including all students in the elementary school; (3) Integration of

arts and foreign language instruction across the curriculum; (4) Coordination of the programs by teachers with appropriate arts and foreign language certification; (5) Professional development for teachers and administrators designed to facilitate the effective teaching of arts and foreign language; (6) An effective monitoring and evaluation system that includes student performance assessment; (7) Partnerships with parents, local cultural agencies, individual artists, and native speakers of the foreign language who work in collaboration with classroom teachers; (8) Support from the local school board, the school council, and teachers; and (9) Student attendance at one or more live performance or visual art exhibition each school year.

The Department of Education shall report annually on the implementation of the program to the Governor and the Legislative Research Commission.

e. Kentucky Board of Education Membership: Notwithstanding KRS 156.029(2), no Kentucky Board of Education member at the time of the member's appointment or during the term of service shall be engaged as a professional educator in elementary or secondary education.

16. LEARNING AND RESULTS SERVICES

a. Funding for Employer Health and Life Insurance and Retirement Contributions: If the costs for health insurance or life insurance coverage for employees of local school districts exceed the levels of appropriated funds, any unexpended Support Education Excellence in Kentucky appropriations may be used to offset the unbudgeted costs. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. If the appropriations for either local school district teachers' retirement employer match or local district health and life insurance fall short of statutory requirements, any surplus funds from the other appropriation unit may be transferred to the appropriation unit experiencing the shortfall. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. Notwithstanding KRS 45.229, any unexpended local school district teachers' retirement employer match funds shall not lapse at the end of fiscal year 2002-2003 but shall be available if needed in fiscal year 2003-2004. Included within the General Fund appropriation for local school district employee health and life insurance is funding to cover costs associated with the Personnel Cabinet's administrative activities including providing life and health insurance for local school district employees. Accordingly, the per month per employee assessment as contained in Appendix B of the budget instructions promulgated by the Legislative Research Commission and communicated to agencies by the Office of State Budget Director shall be remitted to the Personnel Cabinet by the Department of Education from the General Fund appropriation for local school district health and life insurance.

b. Kentucky Education Technology System:

(1) Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650, 157.655, 157.660, and 157.665, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Kentucky Department of Education, shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds.

(2) The School for the Deaf and the School for the Blind shall be fully eligible, along with local school districts, to participate in the Kentucky Education Technology System in a manner that takes into account the special needs of the students of these two schools.

c. Family Resource and Youth Services Centers: Funds appropriated to establish and support Family Resource and Youth Services Centers shall be transferred in fiscal year 2002-2003 and in fiscal year 2003-2004 to the Cabinet for Families and Children consistent with the intent of KRS 156.497. The Cabinet for Families and Children is authorized to use, for administrative purposes, no more than three percent of the total funds transferred from the Department of Education for the Family Resource and Youth Services Centers. If a certified person is employed as a director or coordinator of a Family Resource or Youth Services Center, that person shall retain his or her status as a certified employee of the school district.

If 70 percent or more of the funding level provided by the state is utilized to support the salary of the director of a center, that center shall provide a report to the Cabinet for Families and Children identifying the salary of the director. The Cabinet for Families and Children shall transmit any reports received from Family Resource and Youth Services Centers pursuant to this provision to the Legislative Research Commission.

d. Area Centers and Vocational Departments Funding Formula: All funds appropriated in the budget for supplementing the programs and operations of the area centers and vocational departments of the following districts shall be distributed by a weighted formula that is promulgated in an administrative regulation by the Kentucky Board of Education: Allen County, Ballard County, Bowling Green Independent, Boyd County, Carter County, Christian County, Covington Independent, Edmonson County, Fayette County, Fleming County, Franklin County, Grayson County, Henderson County, Lawrence County, Lewis County, Livingston County, Magoffin County, Marshall County, McCreary County, Newport Independent, Powell County, Simpson County, Trigg County, Union County, and Jefferson County. The weighted formula shall take into consideration the different costs of programs based on requirements for facilities, materials, and equipment to meet program standards, the number of students enrolled, and the number of hours students are enrolled. If the funding formula results in a reduction of funds from the fiscal year 2001-2002 allocation for a center or department that has maintained the same number and category of programs and meets all other criteria, the center shall receive no less than 70 percent of its fiscal year 2001-2002 allocation.

e. School Rewards Trust Fund: Distribution of rewards to local schools shall be based on policy established by the Kentucky Board of Education.

Any amount that the state is required to pay under the provisions of KRS 157.067 and 158.6455(1)(a) shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

f. Allocation of Safe School Funds: Notwithstanding KRS 158.446, the Center for School Safety shall develop and implement allotment policies for all moneys received for the purposes of KRS 158.440, 158.441, 158.442, 158.445, and 158.446.

g. Gifted and Talented Funds: All moneys appropriated for the Gifted and Talented Program shall be expended by local school districts solely for purposes and activities relating to the Gifted and Talented Program.

h. Fund Transfers: The Commissioner of the Department of Education may transfer any available funds between the Professional Growth Fund and the Professional Development Leadership Mentor Fund as needed to satisfy the demand and need to support respective teacher programs.

i. Program Flexibility: Notwithstanding KRS 157.226(2) and (3), 157.3175(3) and (4), and 160.345(8) with regards to the state allocation, five programs (Professional Development, Extended School Services, Preschool, Textbooks, and Safe Schools) shall be modified to permit the state and local school districts additional flexibility in the distribution of program funds while still addressing the governing statutes and serving the need and the intended student population.

j. Advisory Council for Gifted and Talented Education: Notwithstanding KRS 158.648(1), a member of the Advisory Council for Gifted and Talented Education may be reappointed but may not serve more than three consecutive terms.

k. Publishing Requirements: Notwithstanding KRS 158.6453(7), 160.463, and 424.220, public availability of the school district's complete annual financial statement and the school report card shall be made by publishing the documents in the newspaper of the largest general circulation in the county, electronically on the Internet, or by printed copy at a prearranged site at the main branch of the public library within the school district. If publication on the Internet or by printed copy at the public library is chosen, the superintendent shall be directed to publish notification in the newspaper of the largest circulation in the county as to the location where the document can be viewed by the public. The notification shall include the address of the library or the electronic address of the Web site on the Internet where the documents can be viewed.

1. Director of Pupil Personnel: Notwithstanding KRS 159.140, a local district superintendent may employ the Director of Pupil Personnel less than full-time upon approval of a request submitted to the Commissioner of Education. The Commissioner shall take into consideration the size of the school district, the attendance and dropout rate of the district, and the district's supports to assure student attendance and school completion in approving a request.

m. Textbook Adoption: Notwithstanding KRS 156.400, the Commissioner of Education may delay the adoption of textbooks or combine two groups for adoption.

n. Local District Grant Fund Carry Forward: Notwithstanding KRS 45.229, up to ten percent of any state grant fund to a local district that is unexpended for fiscal year 2002-2003 may be carried forward to fiscal year 2003-2004 without a reduction in the fiscal year 2003-2004 allocation.

o. Surplus Property: Notwithstanding KRS 45A.045, 45.777, and 56.463, any funds received by the Commonwealth from the disposal of any surplus property at the Kentucky School for the Blind and the Kentucky School for the Deaf shall be deposited in a restricted account for the sole use by those schools in accordance with all other applicable statutes.

p. Reserve Officers Training Corps: Under the provisions of KRS 156.160, the Kentucky Board of Education shall include in the courses of study for students provisions that participation in the Reserve Officers Training Corps shall meet the physical education requirement for high school graduation.

q. Highly Skilled Educators: Notwithstanding KRS 158.6455(3)(d), 158.782, and 160.350(3), the Kentucky Department of Education shall have the authority to expend moneys appropriated for the Highly Skilled Education Assistance Program on intervention services that may be required by the Federal No Child Left Behind Act of 2001 (Pub. L. 107-110).

r. Commonwealth School Improvement Fund: Notwithstanding KRS 158.805, the Commissioner of Education shall be authorized to use the Commonwealth School Improvement Fund to provide support services to schools needing assistance under KRS 158.6455 or in order to meet the requirements of No Child Left Behind.

EDUCATION, ARTS, AND HUMANITIES

17. KENTUCKY ARTS COUNCIL

a. Open Meetings: Any entity involved in producing or financing arts on a local or statewide basis, which receives funds from the Kentucky Arts Council or from grants from local governmental authorities, shall be required to conduct its business as a public agency pursuant to KRS 61.800 to 61.848 and KRS 61.870 to 61.884.

18. TEACHERS' RETIREMENT SYSTEM

a. Highly Skilled Educators' Retirement Benefits: Notwithstanding KRS Chapters 158 and 161, salary supplements received by persons selected as highly skilled educators on or after July 1, 2000, shall not be included in the total salary compensation for any retirement benefits to which the employee may be entitled.

b. Critical Shortage Positions: Effective July 1, 2003, and subject to the conditions of this provision, local school districts may employ retired members of Kentucky Teachers' Retirement System in full-time or part-time positions without limitation on the compensation of the retired members that is otherwise required by subsections (1) and (2) of KRS 161.605. The number of retired members that a local school district may employ under this provision shall be no more than two members per local school district or one percent of the total active members employed by the local school district on a full-time basis as defined under KRS 161.220(21), whichever number is greater. A local school district may employ retired members of the retirement system only if the Commissioner of the Department of Education has determined that the position is a critical shortage position as defined under KRS 156.106. Retired members returning to work under this provision shall be subject to the separation-from-service requirements set forth in KRS 161.605(7). Retired members returning to work under this subsection shall waive their medical insurance coverage with the retirement system during their period of reemployment and receive medical insurance coverage that is offered to other full-time members employed by the local school district. Retired members returning to work under this subsection shall make contributions to the retirement system as required by KRS 161.540 and start a second retirement account under the conditions set forth in KRS 161.605(5). The employer shall make employer contributions as required by KRS 161.550. Local school districts shall make annual payments to the retirement system on the compensation paid to the reemployed retirees at the rates determined by the retirement system's actuary that reflect any accrued liability resulting from the reemployment of these members. This provision shall sunset effective June 30, 2005, and is not subject to the provisions of KRS 161.714.

The number of retired members that an employer may employ full-time pursuant to KRS 161.605(4) as a percentage of the membership actively employed full-time by the employer shall be reduced from four percent to three percent.

19. SCHOOL FACILITIES CONSTRUCTION COMMISSION

a. Local Districts Facilities Plans: Notwithstanding KRS 157.622(3), funds allocated by the School Facilities Construction Commission to local school districts for fiscal year 2002-2003 and fiscal year 2003-2004 shall be applied to the projects listed in the most current facility plan approved for the district by the Kentucky Board of Education and the funds shall be applied to projects in the priority order listed in the plan.

b. Offers of Assistance: Notwithstanding KRS 157.622, a local school district may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed eight years.

c. Growth Nickel Levy: The Facilities Support Program of Kentucky is fully funded in fiscal biennium 2002-2004. Notwithstanding KRS 157.621(3), local school districts may exercise authority expressed in KRS 157.621(1) and (2).

d. Facilities Plans: Notwithstanding KRS 157.620(5), any school district that did not receive an offer of assistance during the 2000-2002 biennium that resulted from the \$100,000,000 authorization of the 2000 General Assembly, that has an unmet need established based on the facility plan in effect on June 30, 2002, shall receive an offer of assistance based on any increase to the above-referenced authorization made by the 2003 General Assembly that is not specifically designated for another purpose.

e. Escrowed Offers of Assistance: Notwithstanding 750 KAR 1:010, Section 5, the 2000 Kentucky School Facilities Construction Commission offer of assistance for Public School District 221 shall be reinstated.

f. Accumulated Credits: Notwithstanding 750 KAR 1:010, Section 9, Public School District 235 shall not forfeit fund credit accumulated.

g. School Facility Revenue: A local board of education may commit an equivalent tax rate not to exceed five cents (\$0.05) in addition to the taxes levied in KRS 157.440(1)(b). Receipts from the levy shall be committed to debt service, new facilities, or major renovations of existing school facilities. The tax rate levied by the local board of education under this provision shall be made no later than October 1 of each odd-numbered year, and shall not be equalized with state funding. The levy shall be subject to recall.

h. Urgent Need School Trust Fund: The Urgent Need School Trust Fund is established in the Finance and Administration Cabinet for the purpose of assisting school districts that have urgent and critical construction needs. The Urgent Need School Trust Fund shall be administered by the School Facilities Construction Commission. The fund may receive state appropriations, contributions, and grants from any source which shall be credited to the trust fund and invested until needed. All interest earned on the fund shall be retained in the trust fund. Notwithstanding KRS 45.229, moneys in the trust fund shall not lapse, but shall carry forward at the end of each fiscal year.

To be eligible to participate in the Urgent Need School Trust Fund Program in fiscal year 2003-2004, a local school district shall have a project that is: (1) Identified on the district's Facility Plan; (2) A "Category 5" school (poorest condition) in accordance with the Kentucky Department of Education's Building Assessment document of February 20, 2003; and (3) For a school with or including enrollment based on best practices outlined in 702 KAR 1:001, The Kentucky School Planning Manual.

The Kentucky Board of Education shall certify the eligibility of a school district to participate in the Urgent Need School Trust Fund Program to the School Facilities Construction Commission by June 15, 2003.

Debt service assistance to each district shall be determined by funding based on unmet need pursuant to KRS 157:620, calculated utilizing Cash Balances and Bonding Potential available for the project as of February 20, 2003. These offers shall be administered in accordance with 750 KAR 1:010 where not in conflict with the language in this paragraph.

i. School Operations: School #840, a historical community school in district #175, shall not be closed or substantially changed.

j. Category 5 Buildings: Debt service assistance to each eligible district, as provided for in Part I, Operating Budget, of this Act, shall be determined by funding based on unmet need pursuant to KRS 157.620, calculated utilizing Cash Balances and Bonding Potential available for the project with the Kentucky Department of Education's Building Assessment document of March 4, 2003. These offers shall be administered in accordance with 750 KAR 1:010 where not in conflict with the language in this paragraph.

20. DEPARTMENT FOR LIBRARIES AND ARCHIVES

a. Undistributed moneys: Notwithstanding KRS 48.005, undistributed moneys received by a result of litigation with a book supplier shall be appropriated to the Department of Libraries and Archives for the benefit of libraries in the Commonwealth.

CABINET FOR FAMILIES AND CHILDREN

21. CABINETWIDE

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the Statutory Budget Memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet. Phase

I Tobacco Settlement Funds appropriated to the Cabinet may be used as state match to maximize Federal Funds available through the Child Care Development Fund.

b. Human Services Transportation Delivery: Notwithstanding KRS 281.014, 281.870, 281.872 or any other statute or provision of law to the contrary, the Cabinet for Families and Children shall not participate in the Human Services Transportation Delivery Program or the Coordinated Transportation Advisory Committee effective July 1, 2002.

c. Funds Transfer: The Cabinet for Families and Children shall transfer in fiscal year 2003-2004 to the Department for Medicaid Services \$4,000,000 in Restricted Funds to expand the Supports for Community Living Program and \$9,700,000 in Restricted Funds to partially offset the projected Medicaid budget deficit.

22. COMMUNITY BASED SERVICES

a. Education for Recipients of Public Assistance: The Department for Community Based Services shall make available to a minimum of seven percent of total adult public assistance recipients placements in postsecondary or vocational education. The recipients shall receive all support services provided to employed public assistance recipients including transportation and child care. The funding source shall be determined by the Cabinet for Families and Children. Work requirements shall include those required by the postsecondary or vocational educational placement as part of the required program of study or financial assistance. If allowable by Federal regulations related to Welfare Reform work participation rates, work requirements shall be limited to those required by the postsecondary or vocational educational placement as part of the required program of study or financial assistance.

b. Severely Emotionally Disturbed Children: Included in the General Fund appropriation is \$600,000 in fiscal year 2002-2003 and \$600,000 in fiscal year 2003-2004 to provide services for state-committed severely emotionally disturbed children.

c. Child Support Contracting Officials: Included in the General Fund and Federal Funds appropriations for Community Based Services is support for Child Support Contracting Officials to be maintained at the fiscal year 2001-2002 total contracted level of \$33,185,100. Up to \$1,000,000 in fiscal year 2002-2003 and \$1,000,000 in fiscal year 2003-2004 of Child Support Performance Award Funds may be utilized in the Child Support Contracting Officials Contracts to maximize Federal Funds. Funds for individual contracts shall be allocated based on spending and performance patterns utilizing an equity plan negotiated between the Cabinet for Families and Children and the County Attorney Association.

d. Adoptions: In addition to the required health history, the Cabinet for Families and Children or child-placing agency shall provide to adoptive parents or adopted person and to the Circuit Court in writing on a standardized form other nonidentifying background information of the biological parents and blood relatives of the adopted person. The information shall be provided in accordance with KRS 199.520.

e. Children's Advocacy Centers: Included in the General Fund appropriation for the Department for Community Based Services is \$100,000 in fiscal year 2003-2004 for child sexual abuse exams.

f. Guardianship Program: Pursuant to KRS 210.290 and 387.600, the Cabinet for Families and Children may be appointed guardian only when no other suitable person or entity is available or willing to be appointed.

HEALTH SERVICES

23. CABINET FOR HEALTH SERVICES

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the Statutory Budget Memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet.

b. Funds Transfer: The Cabinet for Families and Children shall transfer in fiscal year 2003-2004 to the Department for Medicaid Services \$4,000,000 in Restricted Funds to expand the Supports for Community Living Program and \$9,700,000 in Restricted Funds to partially offset the projected Medicaid budget deficit.

24. MEDICAID ADMINISTRATION

a. Transfer of General Fund or Restricted Funds from Medicaid Benefits to Medicaid Administration: It is the intent of the General Assembly that the Secretary of the Cabinet for Health Services be permitted to transfer from Medicaid Benefits to Medicaid Administration a total of up to \$3,500,000 over the biennium of the General Fund or Restricted Funds appropriations from the Medicaid Benefits budget to the Medicaid Administration budget to be used for technical assistance and costs associated with achieving Health Insurance Portability and Accountability Act (HIPAA) compliance for the Medicaid Management Information System. The Secretary shall recommend any

proposed transfer to the State Budget Director for review and concurrence prior to transfer. Upon concurrence of the State Budget Director, and prior to the transfer, the Secretary shall present the proposed plan to the Interim Joint Committee on Appropriations and Revenue.

b. Kentucky Patient Access to Care (KenPAC) Program Reimbursement: The Medicaid Benefits Budget includes funds to continue an Enhanced Kentucky Patient Access to Care (KenPAC) Program with reimbursement to gatekeeper providers on a sliding scale of \$3 to \$9 per member per month based upon performance and quality criteria. The Department for Medicaid Services shall promulgate administrative regulations which reflect this Act.

c. Medicaid Service Category Expenditure Information: No Medicaid managed care contract shall be valid, and no payment to a Medicaid managed care vendor by the Finance and Administration Cabinet or Cabinet for Health Services shall be made, until the Medicaid managed care contract contains a provision that the contractor shall collect Medicaid expenditure data by the categories of services paid for by the Medicaid Program. Actual statewide Medicaid expenditure data by all categories of Medicaid services, including mandated and optional Medicaid services, special expenditures/offsets, and Disproportionate Share Hospital payments by type of hospital, shall be compiled by the Department for Medicaid Services for all Medicaid providers and forwarded to the Interim Joint Committee on Appropriations and Revenue on a quarterly basis. Projections of Medicaid expenditures by categories of Medicaid services shall be provided to the Interim Joint Committee on Appropriations and Revenue upon request.

d. Administrative Service Organization: The Department for Medicaid Services shall evaluate and conduct cost-benefit and budget analysis on the possibility of entering into a contract with an Administrative Service Organization (ASO) during fiscal year 2003-2004. Such an organization would assist the Department in utilization management, data collection, recipient education, prior authorization and other similar services. The ASO would provide support services for Kentucky Patient Access to Care (KenPAC) Program physicians including, as necessary, disease management, data on emergency room utilization and drug utilization review.

e. Nursing Facility Reimbursement Review: The Cabinet for Health Services shall review the current reimbursement methodology for nursing facility services to determine if current price-based methodology reflects actual direct nursing care costs and promotes quality long term care. The Cabinet shall include the following organizations in this study panel: Kentucky Hospital Association, Kentucky Association of Homes and Services for the Aging, and the Kentucky Association of Health Care Facilities. The report shall be due to the Legislative Research Commission, Interim Joint Committee on Appropriations and Revenue, and Interim Joint Committee on Health and Welfare by December 1, 2003.

25. MEDICAID SERVICES - BENEFITS

a. Disproportionate Share Program: Hospitals shall report indigent inpatient and outpatient care for which, under federal law, the hospital is eligible to receive disproportionate share payments.

b. Hospital Indigent Patient Billing: Hospitals shall not bill patients for services where the services have been reported to the Cabinet and the hospital has received disproportionate share payments for the specific services.

c. Provider Tax Information: Any provider who posts a sign or includes information on customer receipts or any material distributed for public consumption indicating that they have paid provider tax shall also post, in the same size typeset as the provider tax information, the amount of payment received from the Department for Medicaid Services during the same period the provider tax was paid. Providers who fail to meet this requirement shall be excluded from the Disproportionate Share Hospital and Medicaid Program. The Office of Inspector General, Division of Community Health Services, shall include this provision in facilities' annual licensure inspection.

d. Disproportionate Share Hospital Payments: Disproportionate Share Hospital payments shall not exceed the maximum amounts established in the federal law.

e. Quality and Charity Care Trust Fund: No hospital may be reimbursed from both the Quality and Charity Care Trust Fund and the Disproportionate Share Program (DSH) for the same service to the same patient. Any hospital that willfully violates this provision shall be subject to a penalty equal to three times the amount of the improper charge to the funds, which amount shall be credited to the General Fund. The Secretary of the Cabinet for Health Services shall have the authority to secure the patient information as needed from the participating facilities in order to determine compliance and enforce this provision. Each facility billing and receiving reimbursements from the Quality and Charity Care Trust Fund shall be required to identify each patient by Social Security number and indicate whether the patient is classified as indigent or medically needy. Notwithstanding any other provision of this Act or law, in any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement so agree, the General Fund appropriation to fulfill the Commonwealth's contractual obligation relating to the Quality and Charity Care Trust

Agreement or any portion thereof, together with any other funds paid to the Quality and Charity Care Trust contractual obligation of the parties, or any portion thereof, shall be transferred to the Department for Medicaid Services as part of its Restricted Funds appropriation for Benefits. In any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement do not agree to transfer all or any portion of the Trust's revenues to the Department for Medicaid Services for Benefits, the Quality and Charity Care Trust shall operate pursuant to its contractual provisions.

f. **Kentucky Children's Health Insurance Program:** It is the intent of the General Assembly that the Secretary of the Cabinet for Health Services be permitted to transfer from the Medicaid Benefits to the Kentucky Children's Health Insurance Program (KCHIP) General Fund or Restricted Funds appropriations to be used to match the Federal allocation. These transfers may be made to cover both additional regular allocations and redistribution from the federal government. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Upon concurrence of the State Budget Director and prior to the transfer, the Secretary shall make the appropriate appropriation increase request.

g. **Intergovernmental Transfers (IGT's):** It is the intent of the General Assembly that any funds received through an intergovernmental transfer agreement between the Department for Medicaid Services and other governmental entities, in accordance with a federally approved state plan amendment, shall be used to provide for the health and welfare of the citizens of the Commonwealth through the provision of Medicaid benefits. This allocation shall include but not be limited to funds generated through transfer agreements with county-owned nursing homes, county-owned hospitals, state universities, and other governmental agencies. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Revenues from Intergovernmental Transfers are contingent upon agreement by the parties and, when negotiated, the Secretary shall make the appropriations increase requests pursuant to KRS 48.630.

h. **Child Sexual Abuse Exams:** The Department for Medicaid Services shall develop a reimbursement schedule to compensate participating health care providers for the full cost of providing child sexual abuse examinations for eligible children to the extent funds are available. The provisions of this section shall not mandate any services or payments that are not otherwise provided in the Medicaid Benefits budget in Part I, Operating Budget. The reimbursement schedule shall not be reduced under any Managed Care Agreement. The Department may require participating health care providers to meet specific training and experience requirements.

i. **Medicaid Budget Analysis Reports:** The Department for Medicaid Services shall submit a quarterly budget analysis report to the Interim Joint Committee on Appropriations and Revenue. The report shall provide monthly detail of actual expenditures, eligibles, and average monthly cost per eligible by eligibility category along with current trailing 12-month averages for each of these figures. The report shall also provide actual figures for all categories of noneligible-specific expenditures such as Supplemental Medical Insurance premiums, Kentucky Patient Access to Care (KenPAC), nonemergency transportation, drug rebates, cost settlements, and Disproportionate Share Hospital payments by type of hospital. The report shall compare the actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur.

j. **Medicaid Benefits Budget Deficit:** In the event Medicaid Benefits expenditures are projected to exceed available funds, the Secretary of the Cabinet for Health Services shall be empowered to recommend that reimbursement rates, optional services, eligibles, or programs be reduced or maintained at levels existing at the time of the projected deficit in order to avoid a budget deficit. The projected deficit shall be confirmed by the Governor's Office of Economic Analysis. No service, eligible, or program reductions shall be implemented by the Cabinet for Health Services without written notice of such action to the Interim Joint Committee on Appropriations and Revenue and the State Budget Director. Such actions taken by the Cabinet for Health Services shall be reported, upon request, at the next meeting of the Interim Joint Committee on Appropriations and Revenue. Objections to the actions by the Committee shall be responded to in writing in detail, by the Secretary for Health Services within 30 days of such objections.

k. **Medicaid Benefits Budget Surplus:** In the event Medicaid Benefits expenditures are less than available funds, the Secretary of the Cabinet for Health Services may recommend the utilization of available funds to increase reimbursement rates, expand the Medicaid Program or the number of eligibles, or transfer General Fund up to the amount of the excess Restricted Funds to other agencies within the Cabinet to be utilized for direct services to eligibles or clients. No reimbursement rate, service, eligible or program shall be increased without prior communication to the Medicaid Steering Committee and written approval of the State Budget Director and review by the Interim Joint Committee on Appropriations and Revenue. If the Interim Joint Committee on Appropriations and Revenue objects to the recommendations of the Secretary of the Cabinet for Health Services, the recommendations shall be invalid unless:

(1) They are revised to comply with the objections of the committee; or

(2) The committee is informed in writing, in detail, within 30 days of the committee's objections that a determination has been made not to comply with the objections of the committee.

l. **Breast and Cervical Cancer Treatment Program:** The Department for Medicaid Services shall request a plan amendment from the Centers for Medicare and Medicaid Services to extend coverage to uninsured women who are under age 65, not otherwise eligible for Medicaid, have breast or cervical cancer as diagnosed through a recognized screening program, need treatment for breast or cervical cancer and meet any other eligibility criteria established under the Federal Breast and Cervical Prevention and Treatment Act of 2000. Medical assistance for breast or cervical cancer, or precancerous conditions, shall be limited to treatment until a cure or remission is achieved. Medical assistance shall be reinstituted for any subsequent periods of recurrence or metastasis or any future conditions establishing eligibility under this Act. This program may accept gifts, grants, and bequests in support of its mission and duties specified in this Act. All money received shall be administered by the Cabinet, which shall administer these funds through appropriate trust and agency accounts. The Department for Medicaid Services shall promulgate administrative regulations to implement this program within three months of federal approval of the state plan amendment.

m. **Pervasive Developmental Disorders:** As used in this Act, "pervasive developmental disorders" has the same meaning as in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV). The term includes five diagnostic subcategories: (1) Autistic disorder; (2) Pervasive disorder not otherwise specified; (3) Asperger's disorder; (4) Rett's disorder; and, (5) Childhood disintegrative disorder. The Department for Medicaid Services shall make application, within three months of the effective date of this Act, to the Centers for Medicare and Medicaid Services for a waiver to provide services and supports to individuals who: (1) Are Medicaid eligible; (2) Have an Axis I diagnosis of a pervasive developmental disorder; (3) Are institutionalized or at risk for institutionalization; and (4) Require a coordinated plan of medically necessary community-based behavioral health services. The waiver application shall include services that are documented to be effective in the treatment of pervasive developmental disorders and consistent with clinical best practices. The waiver application shall specify the required credentials for the providers of each service. The Cabinet for Health Services shall capitate the number of children served under the Waiver Program to ensure budget neutrality based upon the expenditures for children with pervasive developmental disorders that were served under the IMPACT Plus Program during fiscal year 2001-2002. The Cabinet shall include in the waiver application those items that are necessary to ensure the waiver operates within the designated moneys including but not limited to a maximum number of individuals to be served and a maximum dollar amount that can be expended for an individual. The waiver shall be coordinated with and shall not supplant services provided by schools under KRS Chapter 157 or services provided under KRS Chapters 200 and 347. Nothing in this section shall affect or limit a school district's ability to obtain Medicaid reimbursement for school-related health services. The Department for Medicaid Services shall report by December 1, 2003, to the Governor, the Legislative Research Commission, and the Interim Joint Committee on Health and Welfare on the number of individuals receiving services under the waiver, the cost and type of services received, and any available nonidentifying information pertaining to individual outcomes.

n. **Supports for Community Living Waiver:** Supports for Community Living Waiver funds shall be appropriated only for direct services to qualified Supports for Community Living Waiver recipients, and any unexpended funds shall not lapse but shall be carried forward to the next fiscal year for the same purpose.

26. DEPARTMENT FOR PUBLIC HEALTH

a. **Abstinence Education:** The Department shall use Federal Funds and state matching funds under Title V of the Federal Social Security Act, 42 U.S.C. sec. 710, in the following manner: 95 percent shall be used for community-based grants to institute abstinence education programs; five percent shall be used to administer and evaluate the effectiveness of the program; and, if funds are available after funding community-based programs, the remainder shall be used to promote abstinence education by other means, including an advertising and marketing campaign.

27. DEPARTMENT FOR MENTAL HEALTH/MENTAL RETARDATION

a. **Disproportionate Share Hospital Funds:** Mental health disproportionate share funds are budgeted at the maximum amounts permitted by the Balanced Budget Act of 1997, as amended by the Benefits Improvements and Protection Act of 2000, in the amount of \$36,620,100 in fiscal year 2002-2003 and \$37,718,700 in fiscal year 2003-2004.

b. Restricted Funds Carry Forward: Any unbudgeted Restricted Funds which carry forward in fiscal year 2002-2003 or fiscal year 2003-2004 in the Department for Mental Health/Mental Retardation may be used for grants to Community Mental Health Centers.

c. Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders and Dual Diagnoses: Notwithstanding KRS 210.504, the Department for Mental Health/Mental Retardation shall provide at least \$12,500 each fiscal year to be distributed to support the continued operation of the 14 regional planning councils and Commission activities relating to the mandates of KRS 210.500, 210.502, 210.504, 210.506, and 210.509, through June 30, 2004. The regional planning councils shall make recommendations for, and the Commission shall develop, a two year work plan for specifying goals and strategies relating to services and supports for individuals with mental illness and alcohol and other drug disorders and dual diagnoses, and efforts to reduce the stigma associated with mental illness and other substance abuse disorders. The Commission shall report workgroup activities and findings to the Governor and Interim Joint Committee on Health and Welfare by December 1 of each year.

d. Jailor Mental Health Screening Training: The Kentucky Commission on Services to Individuals with Mental Illness, Alcohol and Other Drug Related Disorders, and Dual Diagnoses shall, in its annual review of the Commission plan, include in its duties the development of recommendations for identifying, treating, housing, and transporting prisoners in jails and juveniles in detention centers with mental illness. Items to be reviewed shall include but not be limited to recommendations for statutory and regulatory changes, training and treatment funding, cost sharing, housing and transportation costs, appropriate treatment sites, and training requirements for local jailers and other officers of the court who may come in contact with persons incarcerated or in detention but deemed mentally ill. The Department for Mental Health/Mental Retardation, Department for Juvenile Justice, and Department for Corrections shall collaborate with the Commission to recommend guidelines and practices to be implemented in regard to training local jailers and appropriate staff on identifying conditions which may require the screening of prisoners or juveniles by appropriate mental health professionals. The Commission shall submit its reports and findings to the Kentucky Jailers' Association, Jail Standards Commission, and Legislative Research Commission, to be distributed to appropriate committees, by December 1, 2003.

e. Mental Health Consultation and Education to Jails: The Department for Mental Health/Mental Retardation Services shall develop a training curriculum and allocate funds to Regional Mental Health/Mental Retardation Boards for training, consulting with, and educating jailers and jail staff on screening and responding to the needs of individuals with mental illness in jails. The training curriculum shall be based on national best practices and include a model working agreement between a Regional Mental Health/Mental Retardation Board and a jail. The training shall be delivered by Regional Mental Health/Mental Retardation Board staff to jailers and jail staff on screening and responding to the needs of inmates with mental illness. Jailers and each jail staff, except administrative support, shall attend the training the first year of the program or within six months of employment. Remaining funds shall defray costs of the Regional Mental Health/Mental Retardation Board for entering into working agreements with the region's jails for: (1) Delivery of the training curriculum to jailers and jail staff; and (2) Consultation and education on individual inmate's needs to jailers and jail staff in accordance with a working agreement. The specific arrangements in a working agreement shall be based on the needs and capacities of the jail. Treatment services may also be provided for in a working agreement, but the cost of treatment is beyond the scope of this appropriation.

f. Castlewood Prader Willis Syndrome Group Home: The contract for the operation of the Castlewood Prader Willis Syndrome Group Home shall equal at least \$233,000 in each fiscal year, absent any pass-throughs to any other entities.

g. Narcotic Treatment Program: The goal of a Narcotic Treatment Program (NTP) shall be to gradually lower doses to get the patient off narcotics or illegal drugs, and to allow maintenance as necessary when documented by the NTP physician. The dispensing of a scheduled drug to a patient at a NTP shall be reported by the attending physician to the Cabinet for Health Services as part of the Kentucky All Schedule Prescription Electronic Reporting (KASPER) system.

28. COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS

a. Kentucky Early Intervention System Analysis Reports: The Commission for Children with Special Health Care Needs shall submit a quarterly budget analysis report for the Kentucky Early Intervention Services Program to the Interim Joint Committee on Appropriations and Revenue. The report shall provide the number of children enrolled, the average number of service units by category of service, and the average cost per service, by category of services, and compare actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur.

29. CERTIFICATE OF NEED

a. Voluntary Relinquishment of a Certificate of Need or Licensure: For 48 months following the voluntary closure, revocation of a certificate of need, or the revocation of licensure, the beds, equipment, and services provided by the closed facility shall be reserved for applications for any certificate of need to reestablish the same services, in whole or part, in the same county as the closed health facility.

30. AGING SERVICES

a. Local Match Requirements: Notwithstanding KRS 205.460, entities contracting with the Cabinet for Health Services to provide essential services under KRS 205.455 and this provision shall provide local match equal to or greater than the amount in effect during fiscal year 2001-2002. Local match may include any combination of materials, commodities, transportation, office space, personal services, or other types of facility services or funds. The Secretary of the Cabinet for Health Services shall prescribe the procedures to certify the local match assurance.

JUSTICE

31. JUSTICE ADMINISTRATION

a. Construction Training Program: General Fund moneys appropriated to the Urban League of Lexington-Fayette County Construction Training Program in fiscal year 2002-2003 shall be used to match Federal Byrne Grant Funds. The Secretary of Justice shall supplement the General Fund appropriation with Federal Funds up to a combined total of \$300,000 in fiscal year 2002-2003 if the program meets the federal grant guidelines of grants administered by the Justice Cabinet. All moneys appropriated that cannot be utilized to match federal grants moneys shall be provided to the Urban League of Lexington-Fayette County Construction Training Program in the form of a grant to continue its activities. The Urban League of Lexington-Fayette County shall report annually on the expenditures of state and federal funds provided through this Act to the Interim Joint Committee on Appropriations and Revenue and the Office of the Secretary in the Justice Cabinet. The Urban League of Lexington-Fayette County shall be subject to any federal grant requirements that are required upon receiving federal moneys.

b. Contingent upon the passage of enabling legislation relating to the expansion of the Parole Board by the 2003 Regular Session of the General Assembly, the Secretary of the Justice Cabinet shall determine the source and amount of funding necessary to support the expansion for fiscal year 2003-2004 from appropriations otherwise available to the Justice Cabinet for fiscal year 2003-2004. Such funds are hereby appropriated to support that legislation.

32. STATE POLICE

a. State/Local Emergency Phone Service Agreement: The Department of State Police may enter into agreements with the governing body of the city, county, urban-county government, charter county government, consolidated local government, or any combination thereof, to provide 911 emergency telephone service.

b. Executive Security Detail for Lieutenant Governor: The State Police shall not provide executive security or transportation to the Lieutenant Governor unless the Commissioner of the Department of State Police makes a determination that specific security measures are warranted or the Governor allocates executive security to the Lieutenant Governor from the current complement of the Kentucky State Police sworn officers assigned directly to the Governor. The Department of State Police shall report to the Interim Joint Committee on Appropriations and Revenue at the end of each quarter of each fiscal year, the expenditure of any moneys on security for the Lieutenant Governor.

c. State Police Authorized Strength: The State Police sworn officer, as defined in KRS 16.010, authorized strength is 1,070 and shall be exempt from any personnel cap imposed on other state employees.

d. State Police Salary and Investigation Enhancements: All KRS Chapter 16 sworn officers, dispatchers, arson investigators, and hazardous device bomb technicians whose salary is less than \$60,000 shall receive a \$1,000 salary increase in fiscal year 2003-2004. This increase shall be added to the base salary and shall be in addition to any salary increase offered to all state employees in Part IV of this Act. Any moneys remaining after the payment of salary increases shall be used to enhance investigation of criminal activity, including but not limited to the following: General criminal investigation; controlled substances investigation; terrorism and counterterrorism; organized crime investigation; fraud investigation; and such other investigations as may be assigned.

e. Boyd County Crime Lab: The crime lab and its operations located in Boyd County, if moved from its current location, shall be relocated within Boyd County. This directive shall expire June 30, 2004.

33. CRIMINAL JUSTICE TRAINING

a. Kentucky Law Enforcement Foundation Program Fund Incentive Payments: Notwithstanding KRS 136.392, the Revenue Cabinet shall not increase the insurance premium surcharge rate. Training incentive payments paid from the Kentucky Law Enforcement Foundation Program Fund to eligible law enforcement officers as prescribed by KRS 15.460 shall be exempted from any budget reduction actions imposed on the Department of Criminal Justice Training.

34. JUVENILE JUSTICE

a. Juvenile Detention: Madison County shall be placed in the Fayette Juvenile Detention region under the statewide detention plan. The Madison County juvenile detention facility may remain open to hold juveniles from Madison County until the state-operated facility in Fayette County opens, and the county shall receive the detention subsidy provided for in KRS 635.060(3) and in Part I of this Act.

b. Juvenile Detention: Clark County shall be placed in the Fayette Juvenile Detention region under the statewide detention plan. The Clark County juvenile detention facility may remain open to hold juveniles from Clark County and other counties until the state-operated facility in Fayette County opens, and the county shall receive the detention subsidy provided for in KRS 635.060(3) and in Part I of this Act.

c. Juvenile Justice Grant: Included in the General Fund appropriations in Part I, Operating Budget, Section H. Justice Cabinet, Juvenile Justice is \$35,000 in fiscal year 2002-2003 and \$35,000 in fiscal year 2003-2004 to support the Survivor's II Program in Fayette County. General Fund moneys provided for the Survivors II Grant shall not be taken from any moneys or grants that would otherwise be awarded to Prevention Council funds of Lexington-Fayette County nor any other Prevention Council funds and shall come from the Support Services unit of the Juvenile Justice Budget.

d. Gateway Juvenile Diversion Center and Mary Kendall Homes: All general fund appropriations provided in Part I of this Act for the Gateway Juvenile Diversion Center and Mary Kendall Homes shall be allotted and expended exclusively to these respective entities.

35. CORRECTIONS MANAGEMENT

a. Appropriation Adjustments: The General Assembly has determined that the Department of Corrections shall be permitted to adjust appropriations between and among the following appropriation units in fiscal year 2002-2003 and in fiscal year 2003-2004; community services and local facilities and adult correctional institutions unless otherwise directed in this Act. Only adjustments necessary to manage the diverse mix of inmate classifications, custody levels, probation and parole caseloads, and population increases and/or decreases shall be permitted. Any appropriations transferred or otherwise directed between and among these appropriation units shall be documented and justified in writing. No adjustments may be made except upon the prior written justification to the Interim Joint Committee on Appropriations and Revenue and written concurrence of the State Budget Director. The State Budget Director shall report such adjustments and the necessity of the adjustment to the Interim Joint Committee on Appropriations and Revenue.

b. Jailer Mental Health Screening Training: The Kentucky Commission on Services to Individuals with Mental Illness, Alcohol, and Other Drug Related Disorders, and Dual Diagnoses shall, in its annual review of the Commission plan, include in its duties the development of recommendations for identifying, treating, housing and transporting prisoners in jails and juveniles with mental illness in detention centers. Items to be reviewed shall include but not be limited to recommendations for statutory and regulatory changes, training and treatment funding, cost sharing, housing and transportation costs, appropriate treatment sites, and training requirements for local jailers and other officers of the court who may come in contact with persons incarcerated or in detention but deemed mentally ill. The Department for Mental Health/Mental Retardation, Department for Juvenile Justice and Department for Corrections shall collaborate with the Commission to recommend guidelines and practices to be implemented in regard to training local jailers and appropriate staff on identifying conditions which may require the screening of prisoners or juveniles by appropriate mental health professionals. The Commission shall submit its reports and findings to the Legislative Research Commission, to be distributed to appropriate committees, by November 1, 2002. The report shall also be provided to the Jail Standards Commission.

c. Green River Correctional Complex - Fencing: The Department of Corrections shall erect a fence around the minimum security facility at the Green River Correctional Complex.

36. COMMUNITY SERVICES AND LOCAL FACILITIES

a. Probation and Parole Credit: Notwithstanding KRS 439.344, the period of time spent on parole shall count as a part of the prisoner's remaining unexpired sentence, when it is used to determine a parolee's eligibility for a final discharge from parole as set out in KRS 439.354, or when a parolee is returned as a parole violator for a violation other than a new felony conviction.

b. County Jail Housing Per Diem: The county jail per diem for housing state inmates shall be reduced by \$1.00 to \$24.60 upon passage of this Act.

c. Early Release of State Felons: The Governor shall not implement, through Executive Order or otherwise, an early release program for state felons upon passage of this Act.

d. Excess Local Jail Per Diem Costs: Local jail per diem payments in excess of amounts necessary to support the budgeted average daily population of state felons in county jails of 4,126 for fiscal year 2002-2003 and 4,575 in fiscal year 2003-2004 shall be deemed necessary governmental expenses and may be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) subject to notification as to necessity and amount by the State Budget Director who shall report any certified expenditure to the Interim Joint Committee on Appropriations and Revenue; provided, however, that no General Fund appropriations to the Community Services and Local Facilities appropriation unit shall be transferred to other appropriation units and shall be expended exclusively for purposes currently assigned within this appropriation unit.

37. ADULT CORRECTIONAL INSTITUTIONS

a. Educational Services: General Fund moneys in the amount of \$2,000,000 are provided in fiscal year 2002-2003 for educational services. Notwithstanding KRS 45.229, any unexpended General Fund appropriations in Corrections Management and Adult Correctional Institutions appropriation units shall not lapse, but continue into fiscal year 2003-2004 to support educational services in the Adult Correctional Institutions appropriation unit. The Department of Corrections shall maintain the current level of educational services.

38. CORRECTIONS

a. Governmental Services Program: Notwithstanding any provision of KRS Chapter 197, the Department of Corrections shall implement the Governmental Services Program under the following directives:

(1) (a) As used in this section, "Governmental Services Program related project" means a project involving work for:

1. The Commonwealth or an agency of the Commonwealth; or
2. A county, urban-county, charter county, city, consolidated local government, special district, or an agency of any of these entities.

(b) Work on a Governmental Services Program shall not confer private benefit on a person except as may be incidental to the public benefit.

(2) The Department shall promulgate an administrative regulation governing prisoners working on Governmental Services Program related projects.

(3) A prisoner shall not begin work on a particular Governmental Services Program related project without the approval of the director of the relevant entity referred to in subsection (1)(a) of this section, or the director's designee.

(4) Participation in Governmental Services Program related projects shall not be deemed employment for any purpose, and a prisoner shall not be deemed an employee or agent of the entity for which he or she performs the community service work.

(5) The Department of Corrections administrative regulation shall set forth the amount of compensation a prisoner shall earn for any work-related project, and any prisoner who works on a Governmental Services Program shall receive an amount equal to one-half of the established compensation for such work and shall be eligible to receive a sentence credit as provided in subsection (8) of this section.

(6) The sentence credit provisions of this section shall not apply to a prisoner who is serving a:

- (a) Sentence of imprisonment for life without possibility of parole;
- (b) Sentence for a violent offense as defined in KRS 439.3401;

- (c) Sentence for escape or attempted escape; or
- (d) Sentence for a sex crime as defined in KRS 17.500.

(7) The Department may grant sentence credits to inmates confined in a detention facility for labor performed in a Governmental Services Program or within a detention facility for the maintenance of the facility or for the operation of facility services such as food service.

- (8) Credit, if granted, shall be uniform and shall be based on the following:

- (a) For every eight full hours of work, one sentence credit shall be earned;
- (b) For every five sentence credits earned, one day of the sentence to be served by the inmate shall be deducted; and

- (c) Sentence credits shall be deducted from the maximum expiration date of the sentence.

(9) The Department may forfeit any credit previously earned by the prisoner or deny the prisoner the right to earn this work credit or the right to earn work credit in any amount if during the term of imprisonment a prisoner commits any offense or violates the rules of the institution.

(10) Notwithstanding any other provision of law to the contrary, the labor of state inmates shall not be used on any construction, building, or building maintenance project outside the prison where use of such labor would reduce skilled employment opportunities of citizens of the Commonwealth. Skilled employment includes but is not limited to labor ordinarily performed by skilled tradespersons.

This section shall become effective on the effective date of this Act.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

39. CABINETWIDE

~~[a. Environmental Quality Commission: Included in the General Fund appropriation for the Natural Resources and Environmental Protection Cabinet is \$253,700 in fiscal year 2003-2004 to support the personnel and operating expenses of the Environmental Quality Commission.]~~

40. GENERAL ADMINISTRATION AND SUPPORT

a. Budget Administration: If the Secretary determines that the functions and responsibilities of the Surface Mining Reclamation and Enforcement budget unit can be performed with fewer positions than budgeted for the biennium, the positions and associated costs may be transferred to the General Administration and Support, Natural Resources, Environmental Protection, and Surface Mining Reclamation and Enforcement budget units for the purpose of employing essential positions, replacing or upgrading information technology equipment, and the replacement of vehicles. The Secretary shall present the proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to transferring any positions and funding.

b. NOx Credits: Within ten days of the Natural Resources and Environmental Protection Cabinet's receipt of U.S. Environmental Protection Agency's approval of a revised State Implementation Plan complying with 40 C.F.R. 51.121 and authorizing the sale of NOx allowances, the Natural Resources and Environmental Protection Cabinet shall notify the Finance and Administration Cabinet. Upon such notification, the Finance and Administration Cabinet shall have the authority to execute the sale of the NOx allowances. The proceeds from the sale shall be credited to the General Fund and deposited into the State Treasury.

41. DEPARTMENT FOR ENVIRONMENTAL PROTECTION

a. Hazardous Waste Fund: Notwithstanding KRS 224.46-580, the Department is authorized to expend up to \$25,000 from the Hazardous Waste Management Fund for the purposes of conducting an audit of the sources and amounts of income and expenditures from the fund.

b. Solid Waste Enforcement Activity: In accordance with KRS 224.43-505, the Natural Resources and Environmental Protection Cabinet shall suspend until July 2006 enforcement activity regarding landfill closure, maintenance, monitoring, and remediation obligations against formerly permitted municipal solid waste disposal and water facilities owned by a city or county that ceases accepting waste prior to July 1, 1992, except as necessary to abate and environmental emergency.

42. DEPARTMENT FOR SURFACE MINING RECLAMATION AND ENFORCEMENT

a. Surface Coal Mining Permits: The permit block provisions of KRS 350.085(6) shall apply both to surface coal mining and reclamation operations owned or controlled by the applicant, and those operations owning or controlling the applicant. The Cabinet shall continue in effect the current state regulations regarding ownership and control provided that a due process hearing shall be afforded at the time that the Cabinet makes a preliminary determination to impose a permit block.

The Cabinet shall conditionally issue a permit, permit renewal, or authorization to conduct surface coal mining and reclamation operations, if the Cabinet finds that a direct administrative or judicial appeal is presently being pursued, in good faith, to contest the validity of the determination of ownership and control linkage. The Cabinet shall conditionally issue permits where the applicant submits proof, including a settlement agreement, that the violation is being abated to the satisfaction of the issuing state or federal agency. Where the initial judicial appeal affirms the ownership or control linkage, the applicant shall have 30 days to submit proof that the violation has been or is in the process of being corrected. Nothing herein shall preclude the applicant from seeking further judicial relief. The reporting requirements of KRS 350.060(3) shall not extend to persons at the level above a publicly traded corporation who own or control the applicant.

43. ENVIRONMENTAL QUALITY COMMISSION

a. Administrative Accountability: The Environmental Quality Commission shall be attached to the Secretary's Office, but shall remain a separate budget unit. The Secretary, with the approval of the Commissioners of the Environmental Quality Commission, shall employ a director and other necessary Commission staff who shall serve at the pleasure of the Commission and the Secretary.

44. KENTUCKY NATURE PRESERVES COMMISSION

a. Minor Use or Development: Notwithstanding KRS 146.410 to 146.535, the Kentucky State Nature Preserves Commission may allow a minor use or development upon or near the property boundary of a nature preserve when the minor use or development results in the addition of acreage to the preserve, furthers the goal of encouraging land use adjacent to the preserve which can help protect the character of the preserve, furthers an important public purpose identified by another state or local public agency, and does not substantially or fundamentally alter the character of the preserve.

POSTSECONDARY EDUCATION

45. COUNCIL ON POSTSECONDARY EDUCATION

a. Research Challenge Trust Fund Account: The proceeds of the Endowment Match Program authorized in Part II, under the Council on Postsecondary Education budget unit, project L.1.c., shall be invested at the direction of the Council on Postsecondary Education until such time as the Council receives a certification from the President of the University of Kentucky or from the President of the University of Louisville stating that formal commitments have been secured by the respective universities to provide the matching requirements as determined by the Council. Upon receipt of the certification, the Council shall transfer the endowment funds from the account to the respective universities for management and investment by the university foundations if the foundations have been previously created to manage and invest private gifts and donations on behalf of the universities over time, otherwise by the university itself. The proceeds of the Research Challenge Trust Fund Account transferred to the universities shall not be managed or invested by an independent board or foundation separate from the foundations previously created to manage and invest funds on behalf of the respective universities. Only the investment earnings from the endowments created or expanded with funds from the Research Challenge Trust Fund and any required matching funds may be expended.

b. Regional University Excellence Trust Fund: The proceeds of the Endowment Match Program authorized in Part II, Capital Projects Budget, under the Council on Postsecondary Education, budget unit, project L.1.d., shall be deposited in the Regional University Trust Fund Account and invested at the direction of the Council on Postsecondary Education until such time as the Council receives a certification from the Presidents of Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, and Western Kentucky University stating that formal commitments have been secured by the respective universities to provide the matching requirements as determined by the Council. Upon receipt of the certification, the Council shall transfer the endowment funds from the account to the respective universities for management and investment by the university foundations if the foundations have been previously created to manage and invest private gifts and donations on behalf of the universities over time, otherwise by the university itself. The proceeds of the Regional Excellence Trust Fund transferred to the universities shall not be managed or invested by an

independent board or foundation separate from the foundations previously created to manage and invest funds on behalf of the respective universities. Only the investment earnings from the endowments created or expanded with funds from the Regional University Excellence Trust Fund and any required matching funds may be expended.

c. Enrollment Growth and Retention Funding Program: The Council on Postsecondary Education (CPE) shall, by July 1, 2003, develop guidelines for the distribution of Enrollment Growth and Retention Funding Program funds that may be requested during the 2004-2006 biennial budget request process. The CPE shall develop the guidelines in collaboration with the university presidents to ensure a fair and equitable plan for distribution that promotes the implementation of the Postsecondary Education Act of 1997. The guidelines shall be presented to the Strategic Committee on Postsecondary Education (SCOPE) for prior review before the final adoption by CPE.

d. Strategic Investment and Incentive Trust Funds Interest Income: Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, interest earnings in the amount of \$6,581,700 shall be transferred from Strategic Investment and Incentive Trust Funds included under these statutes and the trust funds created by 2000 Ky. Acts ch. 549, Part I, L., 56, to Agency Revenue accounts within the Council on Postsecondary Education budget unit in the following amounts and for the following specified purposes. Included in the Restricted Funds appropriation for the Council on Postsecondary Education in Part I is \$100,800 in fiscal year 2002-2003 and \$105,500 in fiscal year 2003-2004 for the Minority Student Preparation Program; \$187,000 in fiscal year 2002-2003 and \$188,400 in fiscal year 2003-2004 for the Southern Regional Education Board Doctoral Scholars Program; \$1,000,000 each year of the biennium for the Rural Innovation Program; \$1,000,000 in each year of the biennium for the Knowledge-Based Economy Academic Programs; and \$2,000,000 in fiscal year 2002-2003 for the Experimental Program to Stimulate Competitive Research (EPSCoR) Program/Science and Engineering Foundation.

e. Kentucky Science and Technology Funding Program: Notwithstanding KRS 164.6027 and 164.6029, included in the General Fund and Restricted Funds appropriations to the Science and Technology Funding Program in Part I, Operating Budget, is \$4,521,600 in each year of the biennium for the Experimental Program to Stimulate Competitive Research (EPSCoR) Program and the Science and Engineering Foundation; \$3,000,000 in each year of the biennium for the Kentucky Research and Development Voucher Program; \$750,000 in each year of the biennium for the Kentucky Commercialization Fund; \$500,000 in each year of the biennium for the Regional Technology Corporations and Satellite Innovation and Commercialization Centers; and \$1,000,000 in each year of the biennium for the Rural Innovation Program.

f. Lung Cancer Research Fund Interest Transfer: Notwithstanding KRS 164.476, interest earnings up to \$300,000 from the Lung Cancer Research Fund may be transferred to the Agency Revenue accounts of the Council on Postsecondary Education to support the Knowledge-Based Economy Academic Program included in the Restricted Funds appropriation for the Council on Postsecondary Education in Part I, Operating Budget.

g. Science and Technology Trust Fund: Notwithstanding KRS 164.6019, 164.6027, and 164.6035, the unobligated balance of fiscal year 2001-2002 appropriations and a portion of the appropriation in fiscal year 2002-2003 and fiscal year 2003-2004 as necessary from the Council on Postsecondary Education, Science and Technology Funding Program shall be transferred to the Office of the Commissioner for the New Economy within the Cabinet for Economic Development. The unobligated balance shall be certified by the Council on Postsecondary Education and submitted to the State Budget Director for final approval prior to the transfer.

h. Interest Earnings Transfer from the Strategic Investment and Incentive Trust Fund accounts: Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, the Council on Postsecondary Education may transfer interest earnings from the Strategic Investment and Incentive Trust Fund accounts to the Agency Revenue accounts of the Council, and expend them upon application to and approval from the State Budget Director, and reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.630.

i. Kentucky Science and Technology Corporation: Notwithstanding KRS 164.6017, the Kentucky Science and Technology Corporation shall submit an annual plan detailing the annual allocation of funds from the Science and Technology Funding Program, excluding funds for the Knowledge-Based Economy Academic Programs, for review and approval by the Council on Postsecondary Education and the Office of the Commissioner for the New Economy within the Cabinet for Economic Development, prior to the Council on Postsecondary Education executing a contract with the Corporation to administer Science and Technology Funding programs.

j. Student Financial Aid and Advancement Trust Fund: The Council on Postsecondary Education shall transfer \$750,000 in interest income from the Student Financial Aid and Advancement Trust Fund to the Kentucky

Higher Education Assistance Authority in fiscal year 2002-2003 to assist in the financing of the Kentucky Educational Excellence Scholarship (KEES) Program.

k. Concept Phase Funding Pool: Notwithstanding KRS 164.6021, the funds appropriated in Part I, Operating Budget, to the Council on Postsecondary Education for the Research and Development Voucher Program may be used to fund the Concept Phase Funding Pool.

l. Regional Postsecondary Education Centers: The Council on Postsecondary Education shall resolve any disputes between or among institutions in the design, planning, or use of each Regional Postsecondary Education Center previously authorized by the General Assembly.

m. Postsecondary Education Employment Status: Notwithstanding KRS 164.225, 164.360, and 164.830, the appointment of a relative to the governing board of a public postsecondary education institution, as defined under KRS 164.001, shall not affect the employment status of any related person employed at least 36 months prior to the appointment of the relative.

n. Efficient Facilities: The General Assembly directs that the Hunt Morgan Addition and Pharmacy Building Addition endorsed for construction by the Council on Postsecondary Education in its 2002-2004 fiscal biennial budget recommendation to the General Assembly, both being designed for wet lab research and having similar requirements for support facilities that can be shared to maximize research space and operational efficiency, shall be constructed as one building.

o. Endowment Match Program - Recruitment and Retention: The universities shall develop and implement specific strategies and plans calculated to achieve reasonable diversity in the recruitment and retention of women, African Americans, and other underrepresented minorities for positions funded by the Endowment Match Program, including fellowship, scholarship, and graduate assistantship recipients. With regard to endowed chairs and endowed professorships funded by the Endowment Match Program, the universities shall report annually to the Council on Postsecondary Education the race and gender of all faculty and their full-time professional staff. The reports shall also include the race and gender of all fellowship, scholarship, and graduate assistantship recipients funded by the Endowment Match Program. The University of Louisville's Annual Report shall include a status report on Our Highest Potential program.

p. Endowment Match Program: Notwithstanding KRS 164.7919(1)(c), the permissible uses of the Regional University Excellence Trust Fund Endowment Match program shall be consistent with guidelines issued by the Council on Postsecondary Education.

46. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

a. Commonwealth Postsecondary Education Prepaid Tuition Trust Fund: Notwithstanding KRS 164A.700 to 164A.709 and 393.015, the Commonwealth Postsecondary Education Prepaid Tuition Trust Fund shall be governed and administered by the board of directors of the Kentucky Higher Education Assistance Authority.

The Prepaid Postsecondary Tuition Administrative account established according to KRS 164A.701(6) and all funds, assets, and deposits therein shall be transferred to the Administrative Fund of the Kentucky Educational Savings Plan Trust (KRS 164A.310).

Beginning on the effective date of this Act, no new prepaid tuition contracts shall be entered into. Purchasers of prepaid tuition contracts may continue to make contributions to prepaid tuition accounts according to the provisions of the contract entered into with the Board of Directors of the Commonwealth Postsecondary Education Prepaid Tuition Trust Fund.

The board of directors of the Kentucky Higher Education Assistance Authority shall promulgate administrative regulations, set fees, and adopt procedures as are necessary to implement this provision.

The State Budget Director and the Secretary of the Finance and Administration Cabinet shall jointly provide the direction and oversight necessary to implement this provision in an expeditious and efficient manner. The Secretary of the Finance and Administration Cabinet shall report the progress of implementation to the Legislative Research Commission and the Interim Joint Committee on the Appropriation and Revenue upon request.

47. EASTERN KENTUCKY UNIVERSITY

a. Capital Renewal and Maintenance Pool: Notwithstanding the provisions of 2000 Ky. Acts ch. 549, Part II, 10., pertaining to eligible projects and matching requirements, and notwithstanding the provisions of Capital Projects Budget Provisions for Part II, Capital Projects, 10., of this Act, pertaining to the matching requirement, \$422,000 in bond funds out of Eastern Kentucky University's 2000-2002 Capital Renewal and Maintenance Pool allocation are reauthorized and reallocated for new construction of water lines to provide water service for the Corbin Campus.

48. KENTUCKY STATE UNIVERSITY

a. Non-Federal Matching Requirement: Included in the Restricted Funds appropriation to Kentucky State University in Part I, Operating Budget, is \$487,800 in fiscal year 2002-2003 and \$502,400 in fiscal year 2003-2004 to enable Kentucky State University to fully fund the non-federal matching requirement under the provisions of the Federal Agriculture Research, Extension, and Education Reform Act of 1998. Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, and 164.7925, interest income in the amount of \$487,800 in fiscal year 2002-2003 and \$502,400 in fiscal year 2003-2004 shall be transferred to Kentucky State University by the Council on Postsecondary Education.

49. MURRAY STATE UNIVERSITY

a. Breathitt Veterinary Center: Included in the General Fund appropriation is \$2,383,800 in fiscal year 2002-2003 and \$2,383,800 in fiscal year 2003-2004 for the Breathitt Veterinary Center. Included in the Restricted Funds appropriation is \$242,700 in each fiscal year for the Breathitt Veterinary Center. Notwithstanding KRS 48.130 and 48.600, there shall be no reduction in funding for these programs. These funds shall be expended solely for the programs of the Breathitt Veterinary Center.

50. UNIVERSITY OF KENTUCKY

a. Interest Income: Notwithstanding the provisions of KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, interest income in the amount of \$234,800 shall be transferred to the University of Kentucky from the Council on Postsecondary Education in fiscal year 2002-2003.

b. University of Kentucky Center for Rural Health: This facility shall be financed by the issuance of tax-exempt bonds by the State Property and Buildings Commission. Lease-rental payments from the University of Kentucky to the Appalachian Regional Hospital Corporation in the amount of \$383,000 per year and lease-rental payments by Hazard Community College to the Appalachian Regional Hospital Corporation in the amount of \$145,000 per year provide the fund source of lease-rental payment to the State Property and Buildings Commission for the purpose of providing debt service for bonds to fund the facility. It is recognized that the lease-rental payments by the University of Kentucky and by Hazard Community College to Appalachian Regional Hospital Corporation are necessary to provide the space needs of the University of Kentucky and Hazard Community College until the completion of the new building facility. Therefore, these lease-rental payments are not available for lease-rental payments to the State Property and Buildings Commission for the issuance of the tax exempt bonds to be used to finance the project until the completion of the new building. The Office for Financial Management within the Finance and Administration Cabinet shall work with the Council on Postsecondary Education to provide an interim financing program to allow for the construction of the new facility, without diversion of the lease-rental payments by the University of Kentucky and the Hazard Community College, to the Appalachian Regional Hospital Corporation, and to the State Property and Buildings Commission until such time as the new facility is completed.

c. Ovarian Cancer Screening Outreach Program: Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, General Fund (Tobacco) dollars in the amount of \$700,000 each fiscal year shall be transferred from the Research Challenge Trust Fund's Lung Cancer Research Program and allotted to the Ovarian Cancer Screening Outreach Program at the University of Kentucky. The Ovarian Cancer Screening Outreach Program may accept gifts, grants, and bequests in support of its mission and duties. All funds received shall be administered by the University of Kentucky through appropriate trust and agency accounts.

51. UNIVERSITY OF LOUISVILLE

a. Quality and Charity Care Trust Agreement: Notwithstanding the provisions of KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, interest income in the amount of \$50,000 shall be transferred to the University of Louisville from the Council on Postsecondary Education in fiscal year 2002-2003 for the Quality and Charity Care Trust Agreement.

b. Property Transfer: Notwithstanding KRS 45.760, the University of Louisville is authorized to exchange real property on the east side of Hurstbourne Lane on its Shelby Campus for real property at the northeast corner of

Third Street and Central Avenue adjacent to the Belknap Campus, only if: (1) The Shelby Campus parcel is utilized in a manner consistent with the Shelby Campus Technology Park plan approved by its Board of Trustees in September 2001; (2) The Secretary of the Finance and Administration Cabinet determines that the use of the Shelby Campus parcel is consistent with the approved Shelby Campus Technology Park plan; (3) Any capital project built on the exchanged parcel near the Belknap Campus receives authorization by the General Assembly prior to the property exchange; (4) The Secretary of the Finance and Administration Cabinet approves the exchange transaction; and (5) The proposal is submitted to the Capital Projects and Bond Oversight Committee for its consideration prior to the exchange.

52. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

a. Postsecondary Workforce Training Program: Included in the General Fund appropriation to the Kentucky Community and Technical College System in Part I, Operating Budget, is \$6,000,000 each year of the biennium for the Postsecondary Workforce Training Program. These funds shall be used for worker training programs on a nonrecurring basis and shall not be used to establish permanent Kentucky Community and Technical College program offerings. Up to \$2,100,000 of the Postsecondary Workforce Training Program each year of the biennium may be transferred to the Bluegrass State Skills Corporation within the Cabinet for Economic Development upon a determination by the State Budget Director that other sources of funds are insufficient to meet the employment retention and training needs of the Commonwealth as certified by the Secretary of the Economic Development Cabinet.

b. Land Proceeds: Notwithstanding KRS 45.777, proceeds in the amount of \$225,600 for the sale of KCTCS property located at Lincoln Park, 1501 Bland Street, Louisville, Kentucky 40217 to the Jefferson County Public School System shall be retained by KCTCS for Jefferson Community College.

c. Faculty and Staff Salaries: Kentucky Community and Technical College System Faculty and Staff Salaries: The number one budget request priority of the Kentucky Community and Technical College System is to correct the historically low salaries of the faculty and staff. The average 2000-01 salary of a community college faculty member is approximately \$2,700 less than the midpoint between the average 2000-01 salary of a Kentucky K-12 teacher and the average salary of a faculty member in Kentucky's other state-supported higher education institutions. The Kentucky Community and Technical College System shall place the highest priority on improving the salaries of the Kentucky Community and Technical College System faculty and nonexecutive and nonmanagement staff.

d. Property Transfer: Notwithstanding KRS 45.760 and in accordance with KRS 164A.575, the Board of Regents of the Kentucky Community and Technical College System (KCTCS) may exchange real property at Gateway Community and Technical College for real property of equal, or greater, fair market value owned by the Saint Elizabeth's Medical Center, Inc., provided that: (1) The Secretary of the Finance and Administration Cabinet approves the exchange transaction; and (2) The proposal is submitted to the Capital Projects and Bond Oversight Committee for its consideration prior to the exchange.

PUBLIC PROTECTION AND REGULATION

53. BOARD OF CLAIMS

a. Notwithstanding KRS 216B.400, in fiscal year 2003-2004 examinations for reported victims of sexual assault shall be paid by the Crime Victims' Compensation Board in a manner consistent with KRS Chapter 346, at a rate determined by the Board. The Board shall reimburse the hospital or sexual assault examination facility as provided in administrative regulations promulgated by the Board.

54. DEPARTMENT OF INSURANCE

a. Risk-based Capital: A corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization, which by contract manages care and processes health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program, shall comply with risk-based capital (RBC) requirements as follows: (1) For purposes of this subsection, risk-based capital shall be determined in accordance with 806 KAR 38:100. Except for subsection (11)(c) of Section 1. and Section 11. of 806 KAR 38:100, a corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization, which by contract manages care and processes health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program, shall comply with 806 KAR 38:100; (2) For the risk-based capital reports required to be filed by health maintenance organizations which manage care and process health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health

Insurance Program, the risk-based capital levels shall be defined as follows: (a) "Company Action Level RBC" means the product of two and its Authorized Control Level RBC; (b) "Regulatory Action Level RBC" means the product of one and five-tenths and its Authorized Control Level RBC; (c) "Authorized Control Level RBC" means the product of four-tenths and the risk-based capital after covariance determined under the risk-based capital formula in accordance with the RBC instruction; and (d) "Mandatory Control Level RBC" means the product of seven-tenths and the Authorized Control Level RBC; and (3) A corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization managing care, processing health care claims, or providing health benefits to groups or individuals in addition to Medicaid-eligible and Kentucky Children's Health Insurance Program enrollees shall comply with the risk-based capital requirements of subsection (1) of this paragraph and 806 KAR 38:100 and shall not be eligible to calculate its risk-based capital according to this subsection.

55. PUBLIC ADVOCACY

a. Compensatory Leave Conversion to Sick Leave: In the event that the Department of Public Advocacy has determined that a budget shortfall may occur, the Public Advocate is authorized to institute a policy to suspend payment of 50 hours of compensatory leave and convert these hours to sick leave for those Attorneys who have accumulated 240 hours of compensatory time.

56. OFFICE OF THE SECRETARY-GENERAL OPERATIONS

a. Funds lapsed in Part V in fiscal year 2002-2003 shall not be replaced through additional administrative fees assessed the agencies.

REVENUE CABINET

57. REVENUE

a. Sales Tax on Communications Services: Notwithstanding of KRS 139.505, all applicants filing on or after June 1, 2003, for the refundable credit for sales tax paid on communications services shall comply with the following: any business whose interstate communications services, subject to the sales tax imposed under KRS Chapter 139 and deducted for federal income tax purposes, exceeds five percent of the business's Kentucky gross receipts during the preceding calendar year is entitled to a refundable credit if the business's annual Kentucky gross receipts are equal to or more than \$1,000,000, and the majority of the interstate communications service billed to a Kentucky service address for the annual period is for communications service originating outside of this state and terminating in this state.

The refundable credit shall be equal only to the sales tax paid on the difference by which the interstate communications service purchased by the business exceeds five percent of the business's Kentucky gross receipts.

To facilitate the administration of the refundable tax credit, the Revenue Cabinet shall grant eligible businesses which apply for the tax credit permission to directly report and pay the sales tax applicable to the purchase of communications service. Once the business receives permission to directly report and pay the tax, refunds of the tax paid on communications service shall not include any sales tax collected and paid by a communications service provider to the Cabinet.

b. Deduction for Taxes Paid to Foreign Countries: Notwithstanding KRS 141.010(11)(a), effective for taxable years beginning after December 31, 2002, the deduction for taxes paid to foreign countries is not allowable.

c. Natural Gas Distribution Services: Notwithstanding KRS 139.100, effective June 1, 2003, the furnishing of natural gas distribution services or natural gas transmission or transportation services shall be retail sales subject to sales and use tax except for the furnishing of those services to residential customers as defined in KRS 139.470(8).

TOURISM DEVELOPMENT CABINET

58. DEPARTMENT OF PARKS

a. Golf Courses: The Secretary of the Tourism Development Cabinet shall complete an analysis to determine whether it is more cost-effective to maintain the unfinished golf courses at Dale Hollow Lake State Park, Yatesville Lake State Park, Grayson Lake State Park, Mineral Mounds State Park, Pennyryle State Park, and Kincaid Lake State Park in their current condition or to finish and open the courses. In completing this analysis, the Secretary shall consider the current cost of maintaining the courses, the cost to open the courses, and the annual revenue expected from these courses once they are opened. The Secretary shall engage the services of an independent consulting agent to assist in the analysis of the data. The Secretary shall report the results of the analysis to the Capital Projects and Bond Oversight Committee within 30 days of completion.

If, upon completion of the study, the Secretary of the Tourism Development Cabinet determines that completion of the golf course projects is the most cost-effective option, bond funds are authorized for this purpose. The bond proceeds shall not exceed the amount supported by \$1,069,000 of General Fund debt service in fiscal year 2003-2004 and as provided in Part I, Operating Budget, Tourism Development Cabinet, Department of Parks.

59. STATE FAIR BOARD

a. Bond Authority: The Kentucky State Fair Board is authorized to issue up to \$52,000,000 in revenue bonds provided agency revenue can be identified in an amount sufficient to support debt service payments. In accordance with KRS 56.450, bonds for this project shall be issued by the State Property and Buildings Commission.

TRANSPORTATION CABINET

60. CABINETWIDE

a. Biennial Highway Construction Programs: The Secretary of Transportation is directed to produce a single document that contains two separately identified sections, as follows:

Section 1 shall detail the enacted fiscal biennium 2002-2004 Biennial Highway Construction Program and Section 2 shall detail the Highway Preconstruction Program Plan for fiscal year 2004-2005 through fiscal year 2007-2008 as identified by the 2002 General Assembly. This document shall mirror in data type and format the fiscal year 2002-2008 Recommended Six Year Highway Plan as submitted to the 2002 General Assembly. The document shall be published and distributed to members of the General Assembly and the public within 60 days of adjournment of the 2003 Regular Session of the General Assembly.

No executive authority shall expend, or otherwise commit in any manner, available fiscal biennium 2002-2004 Road Fund resources for a project designated as a State Project in the fiscal year 2004-2005 through fiscal year 2007-2008 Highway Preconstruction Program Plan. In the event that federally funded projects contained in the enacted fiscal biennium 2002-2004 Biennial Highway Construction Program are delayed due to unforeseen circumstances, or if additional federal funds are received in excess of the amounts contemplated in this Act, the Transportation Cabinet may advance projects from the Highway Preconstruction Program Plan only to the extent required to assure that the Commonwealth makes full use of all available federal funds.

The Secretary of Transportation is further directed to report monthly to the Legislative Research Commission of all activity, as prescribed by KRS 176.430, relating to all projects with open activity conducted by the Transportation Cabinet during the biennium including the year each project phase was enacted in a Six Year Highway Plan. Pursuant to KRS 48.800(5), the Transportation Cabinet shall submit the electronic monthly report in a format prescribed by the Legislative Research Commission.

Notwithstanding KRS 176.440(2), any project additions or modifications that the 2002 General Assembly may make to the fiscal year 2002-2008 Recommended Six Year Road Plan shall carry the same force of law as projects that were included in the fiscal year 2002-2008 Recommended Six Year Road Plan as submitted by the Executive Branch.

61. AIR TRANSPORTATION

a. Bluegrass Field Airport: No appropriations to the Air Transportation Budget shall be utilized for the purpose of studying, planning, or construction of an additional runway at Bluegrass Field Airport.

b. Certified Air Carriers and Cap on Sales and Use Tax: The sales and use tax credit shall be an amount equal to the Kentucky sales and use tax otherwise applicable to aircraft fuel, including jet fuel, purchased by the certificated air carrier for its storage, use, or other consumption during the annual period, less \$1,000,000. The \$1,000,000 amount shall be increased to reflect the Kentucky sales and use tax on aviation fuel attributable to operations of any other company purchased, merged, acquired, or otherwise combined with the certificated air carrier after the base period. The amount of the increase shall be based on the Kentucky sales and use tax applicable to such aircraft fuel purchased during the 12-month period immediately preceding the purchase, merger, or other acquisition by or combination with the certificated air carrier.

62. PUBLIC TRANSPORTATION

a. Federal Transit Administration Match: Included in the fiscal year 2002-2003 Restricted Fund appropriation is \$1,650,000 to match Federal Transit Administration discretionary capital grants to purchase buses and vans for public transit entities. To the extent that these Restricted Funds are not necessary to match additional Federal Funds for the Federal Transit Administration discretionary capital grants for buses and vans, the Restricted

Funds shall revert to the Capital Construction and Equipment Purchase Contingency Account at the close of fiscal year 2003-2004.

b. Human Services Transportation Delivery Program: Consistent with other provisions of this Act, the Human Services Transportation Delivery Program shall continue to be operated under KRS 281.870, 281.872, 281.873, 281.874, 281.875, 281.876, 281.877, 281.878, and 281.879.

63. HIGHWAYS

a. State Match Provisions: The Transportation Cabinet is authorized to utilize state construction moneys to match federal highway moneys in the event that unanticipated additional Federal Funds are provided to Kentucky and the state match appropriations have been exhausted.

b. Excess Debt Service/Lease-Rental Appropriations: Any Road Fund appropriations that are not needed to pay lease-rental payments to the Kentucky Turnpike Authority or debt service on the new Transportation Cabinet Office Building shall be credited to the State Construction Account.

c. Federal Aid Highway Funds: If additional federal highway moneys are made available to Kentucky by the United States Congress, the funds shall be used according to the following priority: (1) Any demonstration-specific or project-specific money shall be used on the project identified; and (2) All other funds shall be used to insure that projects in the 2002-2004 Biennial Highway Construction Plan are funded. If additional federal moneys remain after these priorities are met, the Transportation Cabinet may select projects from the Four Year Preconstruction Program.

d. Demonstration Projects: The Transportation Cabinet is authorized to select up to five design/build demonstration road related projects. For procurement purposes, the Transportation Cabinet shall utilize a qualifications-based bidding process within the context of the provisions of KRS Chapter 176, notwithstanding any conflicting provisions of KRS Chapters 45A, 176, and 177. The Secretary of Transportation shall determine the nature and scope of each design/build project.

e. Prefinancing Road Projects: The Secretary is directed to develop and implement a program to address the policy of the General Assembly to expeditiously initiate and complete projects in the 2002-2004 Biennial Highway Construction Plan. Notwithstanding KRS Chapter 45, specifically including KRS 45.242 and 45.244, the Secretary may concurrently advance projects in the Biennial Highway Construction Plan by employing management techniques that maximize the Cabinet's ability to contract for and effectively administer the project work. The Secretary is directed to continuously ensure that the unspent project and Road Fund balances available to the Transportation Cabinet are sufficient to meet expenditures consistent with appropriations provided. The Transportation Cabinet shall maintain a minimum Road Fund cash management target of \$100,000,000. The Secretary may seek approval to spend Road Fund moneys below \$100,000,000 by submitting a recommended spending plan to the Secretary of Finance and Administration Cabinet for approval. A copy of the approved spending plan shall be transmitted to the Interim Joint Committee on Appropriations and Revenue.

f. Miscellaneous Road Fund Expenditures: A turning lane shall be constructed at KY 1958 and the New Retirement Center in Clark County. The cost related to the construction of the turning lane shall be funded from Road Fund resources.

Luminaries shall be installed at South Williamson to KY 308 in Pike County. The cost related to the installation of the luminaries shall be funded from Road Fund resources.

A stop light shall be installed at the intersection of 55th Street and US 23 in Boyd County. The cost related to the installation of the stop light shall be funded from Road Fund resources.

A stop light shall be installed at the intersection of US 421 and US 62 in Woodford County. The cost related to the installation of the stop light shall be funded from Road Fund resources.

Two flashing school zone lights shall be installed for Fairview High School. The cost related to the installation shall be funded from Road Fund resources. The cost to operate the lights shall be the responsibility of the Boyd County Fiscal Court.

Guardrails shall be installed at the following locations: KY 32 from the Rowan/Elliott County Line to the Junction of KY 32 and KY 7; KY 1620 between MP 2 and MP 4 in Elliott County; KY 1426 between MP 8.263 and MP 8.819 in Floyd County; KY 1231 between MP 2.6 and MP 4.6 in Knott County; KY 1697 between MP 1.7 and MP 3.7 in Knott County; KY 550 between MP 16.8 and MP 18.0 in Knott County; KY 582 between MP 7.9 and MP

10.3 in Knott County; and KY 3419 between MP 9.509 and MP 12.014 in Pike County. The cost related to the installation of the guardrails shall be funded from the maintenance account.

Directional signs to the Aviation Museum of Kentucky shall be installed on US 60 near the intersection of Man-of-War and US 60 in Fayette County. The cost related to the installation of the signs shall be funded from Road Fund resources.

The Transportation Cabinet shall resurface KY 181 from MP 5.8 to MP 10.5 in Muhlenburg County. The costs related to the resurfacing of KY 181 shall be funded from the maintenance account.

The Transportation Cabinet shall resurface KY 1002 from MP 0.638 to MP 1.1 in Wolfe County. The costs related to the resurfacing of KY 1002 shall be funded from the maintenance account.

The Transportation Cabinet shall establish KY 1336 as an access point to the relocated new KY 11 in the Community of Tilton.

Spot improvements shall be made at the intersection of KY 550 and KY 1103 in Knott County to increase site distance. The cost related to the spot improvements shall be funded from Road Fund resources.

Sight distance improvements shall be made from the intersection of KY 645 and KY 581 in Lawrence County extending 2,000 feet south along KY 581 towards Paintsville. The cost related to the sight distance improvement shall be funded from Road Fund resources.

~~{ Any entrance or access used for residential purposes in existence as of February 1, 2003, off Highway 60 in Clark County northeast of Winchester shall be deemed to be a legal entrance.~~

~~The Transportation Cabinet shall extend access by permit about 1,500 feet north of KY 911 along the proposed US 41A project in Christian County.~~

Kentucky 2053, Mt. Washington Road in Jefferson County shall be upgraded from a Rural Secondary road to a State Secondary road.

A stop light and turning lane shall be installed at US 31W at Dart Container World in Hart County. The cost related to the installation of the stop light and turning lane shall be funded from Road Fund resources.

Bloomington Road shall be resurfaced from MP 0.0 to MP 2.0 in Grayson County. The cost related to the resurfacing of the road shall be funded from Road Fund resources.

The Transportation Cabinet shall build and surface two and forty-five one hundredths miles of the Brammer Hill-Delta Road (County Road 1030) in Wayne County. The cost related to building and surfacing the road shall be funded from Road Fund resources.

Included in the State Funded Construction Program is \$2,000,000 in fiscal year 2002-2003 and \$2,000,000 in fiscal year 2003-2004 for concrete intersections.

The Transportation Cabinet shall repave one and six-tenths miles of the Paint Creek Road beginning at the juncture of KY 92 W and the Tacket Creek Road shall be repaved from the juncture of Sevoy Clear Creek Road South in Whitley County. The cost related to the repaving shall be funded from Road Fund resources.

Traffic lights shall be installed at the following locations: on US 60 at the Olive Hill Elementary School entrance east of Olive Hill in Carter County; South Dixie Fire Department on US 31W at Valley Station in Jefferson County; at the intersection of KY 490 and US 25 in Laurel County; at the intersection of KY 68 and Warehouse Drive in the City of Lebanon in Marion County; at the intersection of AA Highway and KY 57 in Mason County; and at the intersection of US 42 and Ridgemoor Drive in Oldham County. The cost related to the installation of the traffic lights shall be funded from the Road Fund resources.

Bridges shall be reconstructed at the following locations: Roaring Paunch Creek Bridge, off KY 1470 on Kingtown Road in McCreary County; Old Sano Road Bridge two miles north of KY 80 in Russell County; Dry Hollow Road Bridge (County Road 1213) in Wayne County; Verne Road Bridge near the junction of Verne Road with KY 1064 in Whitley County; and Keswick Road Bridge in Whitley County. The cost related to the reconstruction of the bridges shall be funded from Road Fund resources.

Guardrails shall be installed at the following locations: Green Briar Road beginning 2 miles east and ending eight miles east of KY 615 in Adair County; Milltown Road (KY 768) one and two-tenths miles north of KY 61 in Adair County; Elmore Hill Road one-tenth of a mile south of KY 70 in Casey County; Thomas Ridge Spur one-tenth

of a mile east of KY 910 in Casey County; Patsy Riffe Ridge two-tenths of a mile east of KY 127 in Casey County; Dishman Springs Road in Barbourville from Helton Branch Road to Emanuel Road in Knox County; Parrot Hollow Road from MP 2.386 to MP 3.225 in Knox County; Artemus/Flat Lick Road from MP 1.1 to MP 1.336 in Knox County; on the left side of KY 1003 one mile east of KY 80 in Pulaski County; and on the left side of KY 1003 four miles east of KY 80 across Buck Creek Bridge in Pulaski County. The cost related to the installation of the guardrails shall be funded from the maintenance account.

Street signs shall be replaced throughout the City of Edgewood in Kenton County. The cost related to replacing the street signs shall be funded from Road Fund resources.

Road improvements shall be made along US 29 from the Railroad Bridge to Lexington Road in Jessamine County. The cost related to the road improvements shall be funded from Road Fund resources.

A sound barrier shall be installed on the north side of Watterson Expressway from the west side of the Newburg Interchange going 1,000 feet west.

A sound barrier shall be installed on I-64 for the St. Regis neighborhood. The cost related to the installation of the sound barrier shall be funded from Road Fund resources.

Luminaries shall be installed on KY 11 from the Main Street Intersection going north in Owsley County. The cost related to the installation of the luminaries shall be funded from Road Fund resources.

A traffic study shall be conducted of the intersection of US 60 and Carroll Road in Clark County. The cost of the study shall be funded from Road Fund resources.

Signs designating the location of the St. John's School shall be installed on US 45 in McCracken County. The cost related to the installation of the signs shall be funded from Road Fund resources.

Provide Road Fund support for the installation of the Douglas Avenue Bridge over Bacon Creek in Whitley County.

The Highway Construction Contingency Fund shall fund the following projects:

(a) Replacement of the Aiken Road Bridge in Jefferson County, project number 5-409.20, \$1,500,000; and

(b) Kentucky 177, Arch Floor Replacement at railroad underpass, \$93,200.

g. Location of proposed I-66: The location of proposed I-66 in the South Central Kentucky Area shall be limited to alternative highway corridors extending from the Cumberland Parkway to the Natcher Parkway north of the City of Bowling Green.

h. Toll Road Facilities: If Federal Funds become available to the state to support the retirement of toll roads debt, then each affected toll road facility within the Commonwealth shall close and all affected toll road employees shall be reassigned within the Transportation Cabinet.

i. Demonstration Project: The Transportation Cabinet shall request a waiver from the Federal Highway Administration to establish a demonstration project that uses pigmented binder materials in the construction of school crosswalks in Hardin County.

j. Notwithstanding KRS 45.750(3)(a), the Secretary of the Transportation Cabinet shall not expend, encumber, or commit more than 50 percent of the funds from the Highway Construction Contingency Fund appropriation for fiscal year 2003-2004 prior to December 9, 2003, except for an emergency project as defined in KRS 45.750(1)(g). This language shall not apply to Part I, Operating Expenses, P. Transportation Cabinet, 95.d.1. This limitation shall not apply to a request from the Secretary of the Economic Development Cabinet for additional funds for the Industrial Road Access Account.

64. VEHICLE REGULATION

a. Motorcycle Education Program: Notwithstanding KRS 186.890(1) and (2), all revenues from the collection of fees relating to the Motorcycle Safety Education Program Fund shall be utilized to provide motorcycle safety programs. No administrative costs for other programs or budget units within the Transportation Cabinet shall be deducted from the Motorcycle Safety Education Program. The Transportation Cabinet shall report biennially to the Interim Joint Committee on Appropriations and Revenue of the revenues deposited to the Fund, the expenditures incurred, and available balances. In addition, the Cabinet shall identify the safety programs provided, the cost of the programs, location, and number of attendees.

65. GENERAL ADMINISTRATION AND SUPPORT

a. **Adopt-A-Highway Litter Program:** The Transportation and Natural Resources and Environmental Protection Cabinets may receive, accept, and solicit grants, contributions of money, property, labor, or other things of value from any governmental agency, individual, nonprofit organization, or private business to be used for the Adopt-a-Highway Litter Program or other statewide litter programs. Any contribution of this nature shall be deemed to be a contribution to a state agency for a public purpose and shall be treated as Restricted Funds under KRS Chapter 45 and reported according to KRS Chapter 48, and shall not be subject to restrictions set forth under KRS Chapter 11A.

b. **Transportation Cabinet Office Building:** The new Transportation Cabinet Office Building shall be owned by the Transportation Cabinet and any revenue generated from the leasing of office space in the new Transportation Cabinet Office Building shall be deposited in the Road Fund.

WORKFORCE DEVELOPMENT CABINET

66. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

a. **Maintenance Pool:** Included in the Capital Budget appropriation is Investment Income Funds totaling \$395,000 in fiscal year 2002-2003 and \$394,600 in fiscal year 2003-2004 for a cabinetwide maintenance pool.

67. DEPARTMENT FOR TECHNICAL EDUCATION

a. **Participation in the Education Technology Program by Area Vocational Education Centers:** Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650, 157.655, 157.660, and 157.665, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Kentucky Department of Education, shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds. The School Facilities Construction Commission shall include Area Vocational Education Centers in any offers of assistance to local school districts for technology assistance during the 2002-2004 fiscal biennium.

b. **Area Technology Centers:** General Fund dollars for operations and equipment and SEEK dollars for the state-run vocational schools are maintained at current levels.

68. DEPARTMENT FOR VOCATIONAL REHABILITATION

a. **Personnel Cap:** A personnel cap of 504 positions (484 full time, 19 part time, and one interim) is authorized.

b. **Debt Service:** Included in the General Fund appropriation is \$30,000 debt service to support Bond Funds totaling \$265,000 to construct a sewage treatment plant at the Carl D. Perkins Rehabilitation Center.

69. DEPARTMENT FOR EMPLOYMENT SERVICES

a. **Facility Replacement and Renovation Program:** The General Assembly authorizes the Department to develop and implement a Facility Replacement and Renovation Program to improve the quality of Workforce Development Cabinet facilities used by the Department and its clients, and to reduce departmental reliance on lease-rental properties.

Proceeds from the sale, transfer, or other disposition of existing facilities may be expended toward the purchase, construction, renovation, equipping, and furnishing of replacement facilities. Additionally, funds received from the Reed Act distribution under Section 903(d) of the Social Security Act, as amended, may be used for the purpose of acquiring property and constructing a building and such improvements, facilities, paving, landscaping, and fixed equipment as may be required for use by the Cabinet for Workforce Development. Expenditures authorized by this provision are limited to the use of funds derived from the sale of Cabinet-owned facilities, which equity rights are shared between both the state and national government, and funds received from the Reed Act distribution.

b. **Operating Costs and Mobile Vehicle:** Additionally, Reed Act distribution may be used for continued operating costs at the Department for Employment Services facilities as well as for the acquisition and equipping of a mobile vehicle for use in providing timely on-site deployment of services to remote locations or to meet extraordinary service requirements subject to applicable statutory and regulatory requirements of the Commonwealth.

The Department is directed to coordinate this program with the Secretary of the Finance and Administration Cabinet and the sale, transfer, or other disposition of existing facilities may be expended toward the purchase, construction, renovation, equipping, and furnishing of replacement facilities. Any project estimated to cost over

\$400,000 and any mobile vehicle costing more than \$100,000 shall be reported to the Capital Projects and Bond Oversight Committee by the Secretary of the Finance and Administration Cabinet.

PART X

GENERAL FUND SURPLUS EXPENDITURE PLAN

1. Pursuant to KRS 48.700 and notwithstanding KRS 48.140, there is established a plan for the expenditure of General Fund surplus moneys pursuant to a General Fund Surplus Plan contained in this Part for fiscal years 2002-2003 and 2003-2004. Pursuant to the enactment of the Surplus Expenditure Plan, General Fund moneys in the General Fund undesignated fund balance are appropriated to the Budget Reserve Trust Fund established in KRS 48.705.

2. The Secretary of the Finance and Administration Cabinet shall determine, within 30 days after the close of fiscal year 2002-2003, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for the Budget Reserve Trust Fund pursuant to the Plan in fiscal year 2003-2004.

The Secretary of the Finance and Administration Cabinet shall certify the amount of actual General Fund undesignated fund balance available for expenditure to the Legislative Research Commission.

Subsequent to June 30, 2002, funds in excess of those appropriated in this Act that are certified as being available in the actual General Fund undesignated fund balance for the General Fund Surplus Account are appropriated for the Budget Reserve Trust Fund in fiscal year 2002-2003 pursuant to the Plan.

PART XI

PHASE I TOBACCO SETTLEMENT

This section of the Act prescribes the policy implementing aspects of the national settlement agreement between the tobacco industry and the collective states as described in KRS 248.701 to 248.727. In furtherance of that agreement, the General Assembly recognizes that the Commonwealth of Kentucky is a party to the Phase I Master Settlement Agreement (MSA) between the Participating Tobacco Manufacturers and 46 Settling States which provides reimbursement to states for smoking-related expenditures made over time.

1. The Commonwealth's share of the MSA is equal to 1.7611586 percent of the total settlement amount. Payments under the MSA are to be made to the states in January and April of each year.

2. The total settlement amount to be distributed each payment date is subject to change pursuant to several variables provided in the MSA, including inflation adjustments, volume adjustments, previously settled states adjustments, and the nonparticipating manufacturers adjustment.

3. The General Assembly has determined that it shall be the policy of the Commonwealth that all Phase I Tobacco Settlement payments shall be deposited to the credit of the General Fund and shall maintain a distinct identity as Phase I Tobacco Settlement payments that shall not lapse to the credit of the General Fund surplus, but shall continue forward from each fiscal year to the next fiscal year to the extent that any balance is unexpended.

4. Based on the current estimates as reviewed by the Consensus Revenue Forecasting Group, the amount of MSA payments expected to be received in fiscal year 2002-2003 is \$125,407,000 and in fiscal year 2003-2004 is \$109,100,000. It is recognized that payments to be received by the Commonwealth are estimated and are subject to change. Any appropriations made from the estimated receipts are subject to adjustments based on actual receipts as received and certified by the Secretary of the Finance and Administration Cabinet.

a. Early Childhood Development Initiatives: Twenty-five percent of the MSA payments received in fiscal year 2002-2003, estimated to be \$31,400,000, and in fiscal year 2003-2004, estimated to be \$27,275,000, is appropriated for Early Childhood Development Initiatives as specified below.

b. Health Care Initiatives: Twenty-five percent of the MSA payments received in fiscal year 2002-2003, estimated to be \$31,400,000, and in fiscal year 2003-2004, estimated to be \$27,275,000, is appropriated to the Kentucky Health Care Improvement Fund for health care initiatives as specified below.

c. Agricultural Development Initiatives: Fifty percent of the MSA payments received in fiscal year 2002-2003, estimated to be \$62,800,000, and in fiscal year 2003-2004, estimated to be \$54,550,000, is appropriated to the Kentucky Agricultural Development Fund to be used for agricultural development initiatives.

A. AGRICULTURAL DEVELOPMENT APPROPRIATIONS

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

1. GOVERNMENT OPERATIONS

Budget Unit	2002-03	2003-04
Kentucky Infrastructure Authority		5,000,000

Notwithstanding KRS 248.703(2)(b)2., and from the allocation provided therein, included in the above appropriation is \$5,000,000 in fiscal year 2003-2004 for debt service for Water and Sewer Resources Development Bond Funds for Tobacco Counties Project provided in the Part II, Capital Projects Budget. All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there is sufficient moneys available to be transferred from tobacco supported funding program accounts to other accounts of the General Fund. Future debt service payments for the Water and Sewer Resources Development Fund for Tobacco Counties shall be provided from the General Fund. Notwithstanding any other provision in this Act, any unneeded debt service up to \$2,282,500 for this project shall lapse to the credit of the General Fund.

Budget Unit	2002-03	2003-04
Governor's Office of Agricultural Policy	47,688,000	34,434,000

Notwithstanding KRS 248.703(2)(b)2., and from the allocation provided therein, included in the above appropriation is \$611,200 in fiscal year 2002-2003 and \$513,300 in fiscal year 2003-2004 which shall be transferred to the credit of the General Fund. Notwithstanding KRS 248.703(2)(b)2., and from the allocation provided therein, included in the above appropriation is up to \$1,600,000 in fiscal year 2002-2003 and \$1,600,000 in fiscal year 2003-2004 for the University of Kentucky Cooperative Extension Service to support the cost of providing a one-time bonus in each fiscal year for county extension agents in addition to any salary adjustments which may be made.

Notwithstanding KRS 248.703(2)(b)1., and from the allocation provided therein, counties that are allocated in excess of \$20,000 annually may provide up to four percent of the individual county allocation, not to exceed \$15,000 annually, to the county council in that county for administrative costs.

2. FINANCE AND ADMINISTRATION CABINET

Budget Unit	2002-03	2003-04
Debt Service	6,112,000	6,116,000

To the extent that revenues sufficient to support the required debt service appropriations are received from the Tobacco Settlement Program, those revenues shall be transferred from those accounts to the appropriate account of the General Fund to fully fund the aggregate debt service obligation of the General Fund. All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there is a sufficient amount available to be transferred from tobacco supported funding program accounts to other accounts of the General Fund.

3. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Budget Unit	2002-03	2003-04
Natural Resources	9,000,000	9,000,000

These funds are appropriated for the Environmental Stewardship Program within the Department for Natural Resources.

TOTAL AGRICULTURAL APPROPRIATIONS	62,800,000	54,550,000
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B. EARLY CHILDHOOD DEVELOPMENT

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

1. GOVERNMENT OPERATIONS

Budget Unit	2002-03	2003-04
Governor's Office of Early Childhood Development	2,188,400	2,188,400

2. CABINET FOR FAMILIES AND CHILDREN

Budget Unit	2002-03	2003-04
Community Based Services	7,262,800	3,581,300

Included in the above appropriation is \$7,023,300 in fiscal year 2002-2003 and \$3,023,300 in fiscal year 2003-2004 for the Early Childhood Development Program, and \$239,500 in fiscal year 2002-2003 and \$558,000 in fiscal year 2003-2004 for Child Advocacy Centers. Phase I Tobacco Settlement funds totaling \$4,000,000 in fiscal year 2002-2003 shall not be expended, but shall carry forward into fiscal year 2003-2004 to sustain operations of fully implemented child care programs. These represent funds from fiscal year 2000-2001 which were reserved by the Early Childhood Authority in anticipation of the reduced Phase I Tobacco Settlement payments in fiscal year 2003-2004.

3. CABINET FOR HEALTH SERVICES

Budget Unit	2002-03	2003-04
Public Health	18,598,800	18,155,300

Included in the above appropriation is \$11,948,800 in each fiscal year for the HANDS Program; \$2,200,000 in fiscal year 2002-2003 and \$2,010,300 in fiscal year 2003-2004 for Healthy Start initiatives; \$2,000,000 in each fiscal year for Universal Children's Immunizations; \$1,200,000 in fiscal year 2002-2003 and \$946,200 in fiscal year 2003-2004 for the Folic Acid Program; \$1,000,000 in each fiscal year for Early Childhood Mental Health; and \$250,000 in fiscal year 2003-2004 for Early Childhood Oral Health. Also included in the above appropriation is \$250,000 in fiscal year 2002-2003 to be transferred to the General Fund. Additionally, \$543,500 in Phase I Tobacco Settlement funds is budgeted to continue from fiscal year 2001-2002 into fiscal year 2002-2003 and from fiscal year 2002-2003 into fiscal year 2003-2004 to sustain operations of the fully implemented Healthy Start (\$289,700) and Folic Acid (\$253,800) Programs. These amounts represent funds from fiscal year 2000-2001 which were reserved by the Early Childhood Authority in anticipation of the reduced Phase I Tobacco Settlement payments in fiscal year 2003-2004.

Budget Unit	2002-03	2003-04
Mental Health and Mental Retardation	1,000,000	1,000,000
Children with Special Health Care		
Needs	1,600,000	1,600,000

Included in the above appropriation is \$550,000 in each fiscal year for Universal Newborn Hearing Screening; \$50,000 in each fiscal year for Vision Screening; and \$1,000,000 each fiscal year for the Kentucky Early Intervention Services First Steps Program.

4. POSTSECONDARY EDUCATION

Budget Unit	2002-03	2003-04
Kentucky Higher Education		
Assistance Authority	750,000	750,000

Included in the above appropriation is \$750,000 in fiscal year 2002-2003 and \$750,000 in fiscal year 2003-2004 for Early Childhood Scholarships.

TOTAL EARLY CHILDHOOD APPROPRIATIONS	31,400,000	27,275,000
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C. HEALTH CARE IMPROVEMENT APPROPRIATIONS

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

Notwithstanding KRS 304.17B-003(5), appropriations for health care improvement shall be as follows:

1. GOVERNMENT OPERATIONS

Budget Unit	2002-03	2003-04
Kentucky Agency for Substance		
Abuse Policy	2,574,800	2,236,600

Notwithstanding KRS 12.330, included in the above appropriation is \$844,100 in fiscal year 2002-2003 and \$489,300 in fiscal year 2003-2004 which shall be transferred to the Endowment Fund. This Endowment Fund shall be created as a Restricted Funds account in the state accounting system. Included in the above appropriation is \$225,000 in fiscal year 2003-2004 to be transferred to the Department for Public Health for operating costs associated with the upgrade of the Kentucky All Schedule Prescription Electronic Reporting (KASPER) system. Included in the above appropriation is \$1,500,000 in fiscal year 2002-2003 and \$1,500,000 in fiscal year 2003-2004 which shall be transferred to the credit of the General Fund.

2. CABINET FOR HEALTH SERVICES

Budget Unit	2002-03	2003-04
Public Health	3,140,000	2,727,500

These funds are appropriated for the Smoking Cessation Program within the Department for Public Health.

3. POSTSECONDARY EDUCATION

Budget Unit	2002-03	2003-04
Council on Postsecondary Education	6,280,000	5,455,000

These funds are appropriated for the Lung Cancer Research Program within the Council on Postsecondary Education.

4. PUBLIC PROTECTION AND REGULATION CABINET

Budget Unit	2002-03	2003-04
Department of Insurance		
General Operations	19,405,200	16,855,900

These funds are appropriated for the Kentucky Access Program.

	2002-03	2003-04
TOTAL HEALTH CARE APPROPRIATIONS	31,400,000	27,275,000
	2002-03	2003-04
TOTAL PHASE I TOBACCO SETTLEMENT		
FUNDING PROGRAM	125,407,000	109,100,000

PART XII

STATE/EXECUTIVE BRANCH BUDGET SUMMARY

OPERATING BUDGET

	2002-03	2003-04
General Fund - Tobacco	125,600,000	109,100,000
General Fund	6,854,558,700	*7,122,728,200
Restricted Funds	3,595,291,900	3,669,046,800
Federal Funds	5,533,885,800	5,428,253,600
Road Fund	1,115,289,400	1,130,926,500
Subtotal	17,224,625,800	*17,460,055,100

CAPITAL PROJECTS BUDGET

	2002-03	2003-04
General Fund	100,000	400,000
Restricted Funds	842,747,031	246,972,750

ACTS OF THE GENERAL ASSEMBLY

Federal Funds	81,219,000	8,866,000
Road Fund	5,840,000	8,284,000
Bond Funds	511,406,380	110,530,000
Agency Bonds	155,000,000	0
Capital Construction Surplus	2,290,000	319,000
Investment Income	17,782,900	15,100,000
Other Funds	108,918,000	2,700,000
Deferred Maintenance	957,000	0
Emergency Repair, Replacement and Maintenance	0	500,000
Capital Construction Contingency	800,000	0
Subtotal	1,727,060,311	393,671,750

TOTAL-STATE/EXECUTIVE BUDGET

	2002-03	2003-04
General Fund - Tobacco	125,600,000	109,100,000
General Fund	6,854,658,700	*7,123,128,200
Restricted Funds	4,438,038,931	3,916,019,550
Federal Funds	5,615,104,800	5,437,119,600
Road Fund	1,121,129,400	1,139,210,500
Bond Funds	511,406,380	110,530,000
Agency Bonds	155,000,000	0
Capital Construction Surplus	2,290,000	319,000
Investment Income	17,782,900	15,100,000
Other Funds	108,918,000	2,700,000
Deferred Maintenance	957,000	0
Emergency Repair, Replacement, and Maintenance	0	500,000
Capital Construction Contingency	800,000	0
TOTAL FUNDS	18,951,686,111	*17,853,726,850

The above capital projects are directly funded in Part II, Capital Projects Budget, of this Act.

PART XIII

WATER AND SEWER RESOURCES DEVELOPMENT BOND POOLS

A. WATER AND SEWER RESOURCES DEVELOPMENT

FOR COAL PRODUCING COUNTIES

Bond Funds in the amount of \$54,765,000 are authorized for projects within the Water and Sewer Resources Development Fund for Coal Producing Counties. The Bond Pool authorization identified in Part II, Capital Projects Budget, and the Project list as identified in Part XIII, Water and Sewer Resources Development Bond Pools, shall be placed under the jurisdiction of the Kentucky Infrastructure Authority (KIA). There is \$5,000,000 in fiscal year 2003-2004 appropriated from Restricted Funds for debt service. From the effective date of this Act, interest earnings and/or investment income earned on bond proceeds shall be retained by the Water and Sewer Resources Development Fund

for Coal Producing Counties. Any interest earnings and/or investment income shall be made available for approved projects. The Executive Director of KIA, the Secretary of the Finance and Administration Cabinet, and Bond Counsel shall determine the most permissive cost-advantageous method for issuing the bonds, including using an existing bond indenture, creating a new bond indenture, and utilizing the State Property and Buildings Commission or the Kentucky Asset/Liability Commission for the issuance of the bonds.

(1) GOVERNMENT OPERATIONS

a.	Budget Unit	Kentucky Infrastructure Authority	2002-03	2003-04
Bell County				
1.	Bell County Fiscal Court - Chichester Sewer Line			
	Bond Funds		150,000	
2.	Bell County Fiscal Court - Sam's Mountain Pump Station and Storage Tank			
	Bond Funds		175,000	
3.	Bell County Fiscal Court - Upper-Lower Christy, Don Green Brownies Creek Pump Station, Storage Tank			
	Bond Funds		320,000	
4.	Bell County Fiscal Court - Water Line Projects on George Neal Road, Premier Road, and Hances Creek Road			
	Bond Funds		225,000	
5.	Bell County Fiscal Court - Whitmer Industrial Park Water Line			
	Bond Funds		130,000	
Boyd County				
6.	Boyd County Fiscal Court - Big Sandy Water District System Improvements			
	Bond Funds		350,000	
7.	Boyd County Fiscal Court - Cannonsburg Water District			
	Bond Funds		350,000	
8.	Boyd County Fiscal Court - City of Ashland Water Treatment Plant Improvements			
	Bond Funds		47,000	
9.	Boyd Sanitation District #2			
	Bond Funds		250,000	
Breathitt County				
10.	Breathitt County Water District - Water Line Extensions			
	Bond Funds		2,726,804	
Butler County				
11.	Butler County Fiscal Court - Water/Sewer Infrastructure			
	Bond Funds		1,000,000	
Carter County				
12.	Carter County Fiscal Court - Olive Hill Water Improvements and Line Extensions			
	Bond Funds		600,000	
13.	Grayson Utility Commission - Water Treatment Plant and Line Extension			
	Bond Funds		600,000	

14. Rattlesnake Ridge Water District - Water Line Extension
Bond Funds 600,000

Clay County

15. City of Manchester - Sewer Line Replacement
Bond Funds 300,000
16. City of Manchester - Sewer Pumps
Bond Funds 100,000
17. Clay County Fiscal Court - Water Line Extension
Bond Funds 2,000,000
18. North Manchester Water District - Tank Construction and Water Line Extension
Bond Funds 1,000,000

Daviess County

19. City of Whitesville - Water Line Extension and Tank
Bond Funds 100,000
20. Philpot Water System - Water Pump and Line Extension
Bond Funds 250,000
21. West Daviess Water District - Water Storage Tank
Bond Funds 350,000

Elliott County

22. City of Sandy Hook Water District - Water System Improvements
Bond Funds 800,000
23. Sandy Hook Sewer Department
Bond Funds 250,000

Floyd County

24. Floyd County Fiscal Court - City of Prestonsburg for Water Tower Replacement for Martin County Prison Project
Bond Funds 400,000
25. Southern Water and Sewer District - Water Line Extensions in Southern Floyd County
Bond Funds 1,250,000

Greenup County

26. City of Greenup - Water Expansion
Bond Funds 500,000
27. City of Greenup - Water System Phase VII Expansion Project
Bond Funds 100,000
28. City of Worthington - Well Head Project and Water System
Bond Funds 155,000
29. Greenup County Fiscal Court - Raceland/ Poplar Highlands Water Extensions
Bond Funds 400,000
30. Greenup County Fiscal Court - Russell/Flatwoods - Russell Heights Sewer

	Bond Funds	60,000
31.	Greenup County Fiscal Court - Storm Drainage	
	Bond Funds	100,000
32.	Greenup County Fiscal Court - Water and Sewer Projects for Cities of Wurtland, Worthington, Raceland, Russell, and Greenup	
	Bond Funds	113,554
33.	Greenup County Fiscal Court - Water Line Projects	
	Bond Funds	125,000
Hancock County		
34.	East Daviess County Water Association - Water Line Extension and Storage Tank	
	Bond Funds	250,000
35.	Hancock County Fiscal Court - Lewisport Industrial Park Water Projects	
	Bond Funds	91,219
Harlan County		
36.	Green Hills Water District - Water Line Little Shepherd Trail	
	Bond Funds	160,000
37.	Green Hills Water District - Water Tank Construction	
	Bond Funds	125,000
38.	Harlan County Fiscal Court - City of Evarts - Line Extension with Black Mountain Utility District	
	Bond Funds	800,000
39.	Harlan County Fiscal Court - City of Lynch Water Line Upgrade	
	Bond Funds	616,027
Hopkins County		
40.	Hopkins County Fiscal Court - Water Projects	
	Bond Funds	370,000
Jackson County		
41.	Jackson County Fiscal Court - Water Line Extensions	
	Bond Funds	435,000
Johnson County		
42.	Paintsville Utility Commission - Water Line Extensions in Scattered Locations	
	Bond Funds	613,435
Knott County		
43.	Knott County Fiscal Court - Water Line Extension	
	Bond Funds	1,000,000
44.	Southern Water and Sewer District - Water Line Extensions on Right Beaver Creek	
	Bond Funds	674,090
Knox County		
45.	Barbourville Utility Commission - Master Meter and Line Connect on Highway 11	

	Bond Funds	180,000
46.	Barbourville Utility Commission - Water Tank, Pump Station HWY 229, and Water Line Extensions	
	Bond Funds	500,000
47.	Knox County Fiscal Court - Water Projects	
	Bond Funds	1,178,400
48.	Knox County Fiscal Court - Water Tank	
	Bond Funds	150,000
Laurel County		
49.	Woods Creek Water District - Sewer and Water Upgrades	
	Bond Funds	2,000,000
Lawrence County		
50.	Big Sandy Water District Interconnection and Water System Improvements	
	Bond Funds	500,000
51.	Lawrence County Fiscal Court - City of Louisa Water System Improvements	
	Bond Funds	391,520
52.	Lawrence County Fiscal Court - Louisa Sewer - High Bottom Lift Station	
	Bond Funds	150,000
Lee County		
53.	City of Beattyville - Tillage Loop	
	Bond Funds	58,000
54.	City of Beattyville - Water Treatment Plant	
	Bond Funds	1,000,000
55.	Lee County Fiscal Court - City of Beattyville Water Line Extension	
	Bond Funds	500,000
56.	Lee County Fiscal Court - Happy Top Sewer Expansion and Other Sewer Expansions	
	Bond Funds	150,000
Leslie County		
57.	Leslie County Fiscal Court - State Route 699 Cutshin Area	
	Bond Funds	650,000
58.	Leslie County Water District - SIMMs Branch and Stone Coal Water Line Extensions	
	Bond Funds	250,000
59.	Leslie County Water District - Water Line Extension on Camp Creek Road	
	Bond Funds	500,000
Letcher County		
60.	Letcher County Fiscal Court - City of Fleming-Neon Water Line Extension	
	Bond Funds	180,000
61.	Letcher County Fiscal Court - City of Jenkins Water Line Extension	
	Bond Funds	223,466

- 62. Letcher County Fiscal Court - Mountain Water District Water Line Extension
Bond Funds 450,000
- 63. Letcher County Fiscal Court - Whitesburg Water Line Extension to Dry Fork-Uz
Bond Funds 400,000
- 64. Letcher County Water and Sewer District - Water Line Extension Route 7 and 317
Bond Funds 2,000,000

Magoffin County

- 65. Magoffin County Fiscal Court - Water/Sewer Expansion
Bond Funds 1,800,000

Martin County

- 66. Martin County Water District - Eastern Area Water Line Extensions
Bond Funds 470,034
- 67. Martin County Water District - Side Hollow Water Line Extensions
Bond Funds 1,033,289

McCreary County

- 68. McCreary County Fiscal Court - Industrial Park Water and Sewer Infrastructure
Bond Funds 80,000
- 69. McCreary County Water District - Water Line Extensions
Bond Funds 920,000

Menifee County

- 70. Cave Run Water Commission - Water Plant
Bond Funds 176,700
- 71. Cave Run Water Commission - Water Plant
Bond Funds 176,700
- 72. Menifee County Fiscal Court - Water Line Extension and Water Tank
Bond Funds 550,000

Morgan County

- 73. City of West Liberty - Water Tank Construction
Bond Funds 400,000
- 74. Morgan County Fiscal Court - Water Line Extensions
Bond Funds 500,000
- 75. Morgan County Water District Board - Water Line Extensions
Bond Funds 500,000

Muhlenberg County

- 76. Muhlenberg County Fiscal Court - Paradise Industrial Park - Water and Sewer Utilities
Bond Funds 500,000

Ohio County

- 77. Ohio County Water District - Water Line Extension

	Bond Funds	241,500
Owsley County		
78.	City of Booneville - Sewer Expansion	
	Bond Funds	600,000
Perry County		
79.	City of Hazard - South Perry County Water Line	
	Bond Funds	1,280,800
80.	City of Hazard - South Perry County Water Line	
	Bond Funds	769,702
81.	Perry County Fiscal Court - City of Hazard - Robinson - Rowdy Water Line	
	Bond Funds	1,099,134
Pike County		
82.	Mountain Water District - Chloe Connector Shelbianna Water	
	Bond Funds	197,000
83.	Mountain Water District - Feds Creek Extension	
	Bond Funds	911,747
84.	Mountain Water District - Lower Shelby Valley Sewer Project	
	Bond Funds	800,000
85.	Mountain Water District - Phelps Water Line Extensions	
	Bond Funds	151,000
86.	Mountain Water District - Fords Mountain Connector	
	Bond Funds	366,000
87.	Pike County Fiscal Court - City of Elkhorn - Beaver Creek Water Line Extension	
	Bond Funds	363,204
88.	Pikeville Water Department - Water Treatment Improvements	
	Bond Funds	174,000
Union County		
89.	Union County Fiscal Court - Sewer Line	
	Bond Funds	300,000
90.	Union County Fiscal Court - Uniontown Sewer Facility	
	Bond Funds	150,000
91.	Union County Water District - Water Line Extension	
	Bond Funds	50,000
92.	Union Fiscal Court - City of Morganfield - Raw Water Main	
	Bond Funds	300,000
Webster County		
93.	Sebree South Industrial Park - Sewer Line Extension	
	Bond Funds	850,000

Whitley County

94.	City of Williamsburg - Water Treatment Plant	
	Bond Funds	3,000,000
95.	Cumberland Falls Water District - System Expansion and Improvements	
	Bond Funds	500,000
96.	Whitley County Water District - Jellico Community Water Line Improvement/Expansion	
	Bond Funds	600,000
97.	Whitley County Water District - Nevisdale Water Line Extension	
	Bond Funds	170,000
98.	Whitley County Water District - Water/ Sewer Extension to Jail	
	Bond Funds	790,000
99.	Whitley County Water District - Woodbine Highway 26 Water Line Replacement/Improvement	
	Bond Funds	700,000

Wolfe County

100.	City of Campton - Dam Repair	
	Bond Funds	250,000
101.	City of Campton - Hazel Green Line Extension	
	Bond Funds	300,000
102.	City of Campton - Maytown Tar Ridge	
	Bond Funds	200,000
103.	City of Campton - Water Line Extension	
	Bond Funds	217,673

B. WATER AND SEWER RESOURCES DEVELOPMENT FUND
FOR TOBACCO COUNTIES

Bond Funds in the amount of \$54,765,000 are authorized for projects within the Water and Sewer Resources Development Fund for Tobacco Counties. The Bond Pool authorization identified in Part II, Capital Projects Budget, and the Project list as identified in Part XIII, Water and Sewer Resources Development Bond Pools, shall be placed under the jurisdiction of the Kentucky Infrastructure Authority (KIA). There is \$5,000,000 in fiscal year 2003-2004 appropriated from the General Fund for debt service. From the effective date of this Act, interest earnings and/or investment income earned on bond proceeds shall be retained by the Water and Sewer Resources Development Fund for Tobacco Counties. Any interest earnings and/or investment income shall be made available for approved projects. The Executive Director of KIA, the Secretary of the Finance and Administration Cabinet, and Bond Counsel shall determine the most permissive cost-advantageous method for issuing the bonds including using an existing bond indenture, creating a new bond indenture, and utilizing the State Property and Buildings Commission or the Kentucky Asset/Liability Commission for the issuance of the bonds.

(1) GOVERNMENT OPERATIONS

a.	Budget Unit	Kentucky Infrastructure Authority	2002-03	2003-04
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Adair County

1.	Adair County Water District - Ozark Water Expansion	
	Bond Funds	413,000

Allen County

2. Allen County Fiscal Court - Industrial Sewer Line Extension
Bond Funds 500,000

Anderson County

3. Anderson County Fiscal Court - South Anderson Water Expansion - Phase VI
Bond Funds 750,000

Barren County

4. City Of Glasgow - Sewer Line Extension To Industrial Park
Bond Funds 250,000
5. City Of Glasgow - Water And Sewer Line Extension To Barren River State Park
Bond Funds 1,400,000
6. Glasgow Water Company - Line Extension & Storage Tank
Bond Funds 340,000

Bath County

7. Bath County Water District - Expansion Phase I
Bond Funds 850,000

Bourbon County

8. City Of Millersburg Water Expansion
Bond Funds 320,000
9. City Of Paris Water Line Extension
Bond Funds 650,000

Boyle County

10. Boyle County Fiscal Court - Perryville Replacement Sewer And Water Line
Bond Funds 35,000
11. City Of Danville Wastewater Treatment Plant Upgrade
Bond Funds 400,000
12. Junction City Water And Sewer Upgrade
Bond Funds 70,000

Bracken County

13. Bracken County Fiscal Court - Augusta 201 Study
Bond Funds 50,000
14. Bracken County Fiscal Court - Augusta Lagoons
Bond Funds 200,000
15. Bracken County Fiscal Court - Sewer Upgrades
Bond Funds 80,000
16. Bracken County Water District - Southwestern Bracken Water
Bond Funds 360,000
17. Bracken County Water District Berlin - Lenoxburg Upgrade
Bond Funds 360,000

Breckinridge County

- | | | |
|-----|--------------------------------------|---------|
| 18. | Hardinsburg Regional Water Treatment | |
| | Bond Funds | 500,000 |

Bullitt County

- | | | |
|-----|---|---------|
| 19. | Louisville Water Company - Brooks Hill Road | |
| | Bond Funds | 126,000 |
| 20. | Louisville Water Company - Lebanon Junction Project | |
| | Bond Funds | 383,000 |
| 21. | Louisville Water Company Lake Elmo | |
| | Bond Funds | 80,000 |
| 22. | Louisville Water Company-East Highway 480 | |
| | Bond Funds | 300,000 |
| 23. | Louisville Water Company-Knob Creek Road | |
| | Bond Funds | 90,000 |

Caldwell County

- | | | |
|-----|---|---------|
| 24. | Caldwell County Water District - Improvements | |
| | Bond Funds | 300,000 |
| 25. | City Of Princeton - Water Storage Tank | |
| | Bond Funds | 125,000 |
| 26. | City Of Princeton - Water Treatment Plant Expansion | |
| | Bond Funds | 150,000 |

Carroll County

- | | | |
|-----|---|---------|
| 27. | Carroll County Fiscal Court - Wirthville (Happy Hollow) Sewer Plant | |
| | Bond Funds | 250,000 |

Casey County

- | | | |
|-----|---|---------|
| 28. | Casey County Water - Southeastern Casey Water Expansion | |
| | Bond Funds | 750,000 |
| 29. | City Of Liberty - Sewer Expansion | |
| | Bond Funds | 80,000 |

Clark County

- | | | |
|-----|---|---------|
| 30. | Clark County Fiscal Court - East Clark County Water Phase VII | |
| | Bond Funds | 375,000 |
| 31. | East Kentucky Power - US 60 Line Sewer | |
| | Bond Funds | 150,000 |
| 32. | Winchester Municipal Utilities - KY 15 Elevated Press | |
| | Bond Funds | 500,000 |

Clinton County

- | | | |
|-----|---|--|
| 33. | City Of Albany - Wastewater Treatment Plant Improvement | |
|-----|---|--|

	Bond Funds	1,000,000
34.	City Of Albany - Water Extension	
	Bond Funds	135,000
35.	Clinton County Fiscal Court - Cumberland Extension And Pump	
	Bond Funds	360,000
36.	Clinton County Fiscal Court - Sewer Line To Highway 90 Area	
	Bond Funds	150,000
Crittenden County		
37.	City Of Marion - Wastewater Improvement	
	Bond Funds	200,000
38.	Crittenden County Fiscal Court - Crittenden-Livingston-Water Extension Phase VII	
	Bond Funds	150,000
39.	Crittenden County Fiscal Court - Crittenden-Livingston-Water KY 1668-135	
	Bond Funds	150,000
40.	Crittenden County Fiscal Court - Livingston Water Improvement	
	Bond Funds	500,000
Cumberland County		
41.	City Of Burkesville - Water Treatment Expansion	
	Bond Funds	1,300,000
Edmonson County		
42.	City Of Brownsville - Sewer Line Extension	
	Bond Funds	130,000
43.	City Of Brownsville - Sewer Line Extension	
	Bond Funds	228,000
44.	Edmonson County Sanitation Authority - Sewer Line Extension	
	Bond Funds	300,000
Estill County		
45.	Estill County Water Expansion	
	Bond Funds	600,000
Fleming County		
46.	Fleming County Fiscal Court - Fleming County Industrial Park Tank	
	Bond Funds	350,000
47.	Fleming County Fiscal Court - Flemingsburg 201 Study	
	Bond Funds	35,000
48.	Fleming County Fiscal Court - Flemingsburg Water Lines	
	Bond Funds	75,000
49.	Fleming County Fiscal Court - Hillsboro Sewer (\$3,000,000 Project)	
	Bond Funds	200,000

50.	Fleming County Fiscal Court - West Fleming Water District	
	Bond Funds	100,000
51.	Fleming County Water Association - Telemetry	
	Bond Funds	150,000
Franklin County		
52.	Franklin County Fiscal Court - North Shelby - Monroe Lane	
	Bond Funds	48,037
53.	Franklin County Fiscal Court - North Shelby Water - Snow Hill	
	Bond Funds	53,852
54.	Peaks Mill Water District - Union Ridge Extension	
	Bond Funds	650,000
Gallatin County		
55.	Gallatin Water Works - Extension	
	Bond Funds	250,000
Garrard County		
56.	Garrard County Fiscal Court - Flint Road Water Line Upgrade	
	Bond Funds	100,000
57.	Garrard County Fiscal Court - Recreation Park Water Lines	
	Bond Funds	100,000
58.	Garrard County Water - Old Richmond & Brock Rd. Water	
	Bond Funds	65,000
Grant County		
59.	Bullock Pen Water District - Improvements	
	Bond Funds	725,000
Grayson County		
60.	Grayson County Fiscal Court - Leitchfield Bypass Water Extension	
	Bond Funds	500,000
Green County		
61.	Green-Taylor Water District - Line Water System Improvement	
	Bond Funds	600,000
62.	Sanitation District #1 - Summersville Sewer Forced Main	
	Bond Funds	573,000
Hardin County		
63.	Hardin County Water District #2 - Water and Sewer Improvements	
	Bond Funds	1,000,000
64.	New Salem Water Improvements	
	Bond Funds	700,000
65.	West Point - Water and Sewer Improvements	

	Bond Funds	125,000
Harrison County		
66.	City Of Cynthiana - Wastewater Plant	
	Bond Funds	1,000,000
67.	Harrison County Water Association - Telemetry	
	Bond Funds	100,000
Hart County		
68.	Edmonson County - Water Improvement	
	Bond Funds	110,000
69.	Green River Valley Water Improvement	
	Bond Funds	300,000
70.	Green River Valley Water Improvement	
	Bond Funds	288,000
Henry County		
71.	Henry County Water District - Storage Tank, Acquisition of System, Upgrades	
	Bond Funds	500,000
Jessamine County		
72.	Jessamine County Water District 1 - Ashgrove - Vince Road Loop	
	Bond Funds	285,000
73.	Jessamine South Elkhorn Water District - Southeast Water Lines	
	Bond Funds	800,000
Larue County		
74.	City Of Hodgenville - Water and Sewer Improvements	
	Bond Funds	200,000
75.	Larue Co Water District #1	
	Bond Funds	250,000
76.	South Nelson & Larue Water Extension	
	Bond Funds	250,000
Lewis County		
77.	Garrison-Quincy Water District - Water and Sewer Improvements	
	Bond Funds	800,000
78.	Tollesboro Industrial Park Tank	
	Bond Funds	200,000
Lincoln County		
79.	City Of Stanford Water Commission - Buckcreek Lake Water, Phase I And II	
	Bond Funds	1,000,000
80.	Eubank Water	
	Bond Funds	60,000

81.	Garrard County Water - Old Falls Lick And North 27 Water	
	Bond Funds	38,988
Livingston County		
82.	Livingston County Fiscal Court - Crittenden-Livingston Water Line Extension	
	Bond Funds	175,000
83.	Livingston County Fiscal Court - Grand Rivers Water Line	
	Bond Funds	50,000
84.	Livingston County Fiscal Court - Ledbetter Water Line Upgrade	
	Bond Funds	125,000
85.	Livingston County Fiscal Court - Salem Water Line	
	Bond Funds	50,000
86.	Livingston County Fiscal Court - Smithland Water Line	
	Bond Funds	50,000
Logan County		
87.	Logan/Todd Regional Commission - Water and Sewer Improvements	
	Bond Funds	750,000
Lyon County		
88.	City Of Eddyville - Raw Line And Tank	
	Bond Funds	500,000
Madison County		
89.	Richmond Gas & Water - Sewer Wastewater Treatment Plant	
	Bond Funds	1,000,000
90.	Richmond Water Gas & Sewer Works Intake	
	Bond Funds	1,000,000
Marion County		
91.	Lebanon/Marion County Industrial Development Authority - Industrial Site Water And Sewer	
	Bond Funds	450,000
92.	Marion County Water District - Rural Water Extension And Tank	
	Bond Funds	250,000
Mason County		
93.	Mason County Fiscal Court - All Water Districts - Water Line Extensions	
	Bond Funds	500,000
94.	Mason County Fiscal Court - Maysville - Mason County Industrial Park	
	Bond Funds	500,000
95.	Mason County Fiscal Court - Muransburg	
	Bond Funds	100,000
96.	Mason County Fiscal Court - West Mason - Replace Two Tanks	
	Bond Funds	200,000

97. Mason County Fiscal Court - West Mason Water Line Extension
Bond Funds 100,000

98. Mason County Fiscal Court - West Mason Well
Bond Funds 100,000

Meade County

99. City Of Brandenburg - Water Tanks
Bond Funds 100,000

100. Meade County Water District - Phase V Water System
Bond Funds 250,000

Mercer County

101. City Of Burgin - Drinking Water Enhancement Project
Bond Funds 200,000

102. Lake Village Water Association - Water Main Extension, Contract 12-US 68, Shakertown
Bond Funds 450,000

103. North Mercer Water District - Improvements
Bond Funds 500,000

Metcalf County

104. City Of Edmonton-Sewer Line Extension To Industrial Park
Bond Funds 200,000

105. Edmonton Water Works - Line Extension
Bond Funds 300,000

106. Metcalfe County Fiscal Court - Matching Funds For Water Extension
Bond Funds 300,000

Monroe County

107. Monroe County Fiscal Court - Gamaliel Sewer Replacement And Improvement
Bond Funds 200,000

108. Monroe County Fiscal Court - Tompkinsville Water Improvement
Bond Funds 300,000

109. Monroe County Fiscal Court - Water Improvement
Bond Funds 345,000

110. Monroe County Fiscal Court - Water Improvement
Bond Funds 66,000

Montgomery County

111. City Of Jeffersonville
Bond Funds 125,000

112. Montgomery County Fiscal Court - Judy Water Meter Upgrade
Bond Funds 50,000

113. Montgomery County Water District 1

	Bond Funds	250,000
114.	Mt. Sterling - Water Treatment Plant	
	Bond Funds	500,000
115.	Mt. Sterling Water & Sewer	
	Bond Funds	110,000
Nelson County		
116.	City Of Bardstown - Water Tank Improvements	
	Bond Funds	500,000
117.	Nelson Fiscal Court - To Match Water Line	
	Bond Funds	250,000
Nicholas County		
118.	Nicholas County Fiscal Court - Water System Improvement	
	Bond Funds	300,000
Oldham County		
119.	Oldham County Fiscal Court - Buckner Sewer System Upgrade	
	Bond Funds	600,000
120.	Oldham County Fiscal Court - Well And Water Extension At Westport	
	Bond Funds	100,000
121.	Oldham County Water District - Storage Tank US 42 And Hwy 53	
	Bond Funds	450,000
Owen County		
122.	Owen County Fiscal Court - Water Line To Industrial Park	
	Bond Funds	750,000
Pendleton County		
123.	City Of Falmouth - Wastewater Plant	
	Bond Funds	500,000
124.	Pendleton County Fiscal Court - Phase III	
	Bond Funds	700,000
125.	Pendleton County Fiscal Court - Water Main Extensions - Phase I & II	
	Bond Funds	442,000
Powell County		
126.	Powells Valley Water District - Improvements	
	Bond Funds	600,000
Pulaski County		
127.	Pulaski County Fiscal Court - Somerset Sewer Expansion	
	Bond Funds	125,000
128.	South East Water Association & Burnside-E Tateville-Antioch Area Expansion	
	Bond Funds	250,000

129.	South East Water Association - Dykes-Blaze Valley Water Expansion	
	Bond Funds	340,000
130.	South East Water Association - E Science Hill To KY 461 Water Expansion	
	Bond Funds	413,000
131.	W Pulaski Water Association - Water Extension	
	Bond Funds	50,000
Robertson County		
132.	Buffalo Trail Water Association - Milford Area	
	Bond Funds	375,000
133.	City Of Mount Olivet - Sewer	
	Bond Funds	300,000
Rockcastle County		
134.	Rockcastle County Fiscal Court - Water Additions	
	Bond Funds	475,000
135.	Rockcastle County Fiscal Court - West Rockcastle County Water Extensions	
	Bond Funds	250,000
Rowan County		
136.	Rowan County Fiscal Court - Water Treatment Upgrade Morehead	
	Bond Funds	425,000
137.	Rowan Water, Inc. - Hydrants	
	Bond Funds	75,000
Russell County		
138.	City Of Jamestown - Water Treatment Expansion	
	Bond Funds	450,000
139.	City Of Russell Springs - Water Line Expansion	
	Bond Funds	100,000
Scott County		
140.	City Of Sadieville - Wastewater Treatment	
	Bond Funds	500,000
141.	Scott County Fiscal Court - Reservoir	
	Bond Funds	500,000
142.	Scott County Fiscal Court - Stamping Ground Water and Sewer Improvements	
	Bond Funds	370,000
Shelby County		
143.	North Shelby Water - Antioch Extension	
	Bond Funds	50,466
144.	Shelby County Fiscal Court - Shelby Sewer Project - 1006 Rockbridge Highway 55	
	Bond Funds	375,000

145.	Shelby County Fiscal Court - Shelby Sewer Project - 1002 US 60 Highway 55 Extension	
	Bond Funds	150,000
146.	Shelbyville Water & Sewer - Zaring Mill Road	
	Bond Funds	175,000
147.	US 60 Water District - Highway 636	
	Bond Funds	100,000
Simpson County		
148.	City Of Franklin - Sewer Line Extension To Interstate Industrial Park	
	Bond Funds	500,000
Spencer County		
149.	Taylorsville Water Works - County Wide Extension-Phase III Projects	
	Bond Funds	500,000
Taylor County		
150.	Campbellsville Municipal Water Service - Taylor County Scattered Sites Water-Expansion #1	
	Bond Funds	1,000,000
151.	Campbellsville-Taylor County Industrial Development Authority - Site Extension	
	Bond Funds	250,000
Todd County		
152.	Logan/Todd Reg. Commission - Improvements	
	Bond Funds	500,000
Trigg County		
153.	Trigg County Fiscal Court - Barkley Lake Water Improvement	
	Bond Funds	500,000
154.	Trigg County Fiscal Court - Canton Water System Upgrade	
	Bond Funds	500,000
Trimble County		
155.	Trimble County Fiscal Court - Scattered Sites Water Line Extension	
	Bond Funds	180,000
Warren County		
156.	Warren County Fiscal Court - System Improvement Riverside And Hadley	
	Bond Funds	500,000
157.	Warren County Fiscal Court - Warren County Water Improvement	
	Bond Funds	800,000
158.	Warren County Sewer Interceptors	
	Bond Funds	220,000
Washington County		
159.	Phase IV Springfield Water Project	
	Bond Funds	1,250,000

160.	Springfield Waste Water - Improvements	
	Bond Funds	500,000

Wayne County

161.	Monticello Utility Commission - Brocade South Fork Area	
	Bond Funds	729,000
162.	Monticello Utility Commission - Gregory Ritner Area	
	Bond Funds	684,000

Woodford County

163.	North Woodford Water Improvements	
	Bond Funds	150,000
164.	Woodford County Fiscal Court - Brushy Run Road	
	Bond Funds	150,000

Legislative Research Commission Note (5/1/2003). Bracketed material within this bill represents text deleted by the Governor's veto on March 20, 2003, and not restored by legislative override of a veto.

Legislative Research Commission Note (5/1/2003). KRS 48.313 provides that "[i]f a total or subtotal conflicts with the sum of the appropriation figures of which it consists, the amounts of the individual appropriations shall control" and directs the Reviser of Statutes to substitute corrected totals or subtotals in the Acts and journals of the General Assembly and in the Kentucky Revised Statutes. Under the procedure set out in that statute, the following items have been corrected in this Act, with the amounts that have been substituted preceded by an asterisk within the text of the Act:

The 2003-2004 fiscal year figure for the Budget Reserve Trust Fund for the General Fund (Part I, Operating Budget; R. Budget Reserve Trust Fund);

The 2003-2004 fiscal year total for the Budget Reserve Trust Fund (Part I, Operating Budget; R. Budget Reserve Trust Fund);

The 2002-2003 and 2003-2004 fiscal year totals for Part V, Funds Transfer;

The 2003-2004 fiscal year figure for the Operating Budget General Fund (Part XII, State/Executive Branch Budget Summary, Operating Budget);

The 2003-2004 fiscal year subtotal for the Operating Budget (Part XII, State/Executive Branch Budget Summary, Operating Budget);

The 2003-2004 fiscal year statewide total for the General Fund (Part XII, State/Executive Branch Budget Summary, Total-State/Executive Budget); and

The 2003-2004 fiscal year statewide Total Funds figure (Part XII, State/Executive Branch Budget Summary, Total-State/Executive Budget).

Vetoed in part, March 20, 2003. Became law March 23, 2003, without Governor's signature. Governor's vetoes overridden in part, March 25, 2003.

CHAPTER 157

(HB 467)

AN ACT relating to traffic regulations.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

The provisions of this chapter to the contrary notwithstanding, a vehicle that has a valid registration of a declared gross vehicle weight including any towed unit of eighty thousand (80,000) pounds or less, shall be exempt from any axle weight provisions when operating on any state-maintained highway that is classified as a "AAA" highway, if the vehicle is hauling seventy-nine thousand nine hundred ninety-nine (79,999) pounds or less. A person operating a vehicle under the provisions of this section shall have written documentation verifying the weight of the load being hauled is seventy-nine thousand nine hundred ninety-nine (79,999) pounds or less.

Governor's veto overridden March 25, 2003.

CHAPTER 158

(HB 206)

AN ACT providing for a Kentucky National Guard and Reserve Employers' Council.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

- (1) *There is created a committee to be known as the Kentucky National Guard and Reserve Employers' Council, which shall be attached to the Office of the Adjutant General for administrative purposes only.*
- (2) *The council shall be composed of the following:*
 - (a) *The secretary of the Kentucky Personnel Cabinet or the secretary's designee;*
 - (b) *Three (3) members appointed by the President of the Senate, selected from a list of five (5) names submitted by each of the following organizations:*
 1. *Associated Industries of Kentucky;*
 2. *The Kentucky Chamber of Commerce; and*
 3. *The Kentucky Chapter of the National Federation of Independent Business;*
 - (c) *Three (3) members appointed by the Speaker of the House of Representatives, selected from a list of five (5) names submitted by each of the following organizations:*
 1. *The Kentucky League of Cities;*
 2. *The Kentucky Association of Counties; and*
 3. *The Kentucky State AFL-CIO; and*
 - (d) *One (1) member appointed by the Governor, selected from a list of five (5) names submitted by the Kentuckiana Chapter of Associated Builders and Contractors.*
- (3) *The council shall select one (1) of the appointed members as chairman.*
- (4) *Initially, three (3) of the members shall be appointed to serve for a period of four (4) years, two (2) of the members shall be appointed to serve for a period of three (3) years, and two (2) of the members shall be appointed to serve for a period of two (2) years. Thereafter, members shall be appointed for a period of four (4) years.*
- (5) *Members shall serve without pay, and shall not be reimbursed for travel expenses.*
- (6) *A majority of members shall constitute a quorum.*
- (7) *The council shall meet as often as necessary, but it shall meet not less than two (2) and not more than six (6) times annually.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

The Kentucky National Guard and Reserve Employers' Council shall, as its mission, advise employers, both public and private, of the importance of supporting the National Guard and the Army, Navy, Air Force, Marine Corps, and Coast Guard Reserves by providing employee members with time off for training, and with job security during times of mobilization. The council may recommend solutions to employment problems encountered by members of

the National Guard or military reserves who are mobilized, and it may offer proposed policy or statutory changes to deal with those problems.

Approved March 31, 2003

CHAPTER 159

(HB 224)

AN ACT relating to education and declaring an emergency.

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

Section 1. KRS 159.140 is amended to read as follows:

(1) The director of pupil personnel shall:

- (a)~~[(1)]~~ Devote his entire time to the duties of his office *except as provided in subsection (2) of this section*;
- (b)~~[(2)]~~ Enforce the compulsory attendance and census laws in the attendance district he serves;
- (c)~~[(3)]~~ Acquaint the school with the home conditions of the student, and the home with the work and advantages of the school;
- (d)~~[(4)]~~ Ascertain the causes of irregular attendance and truancy, and seek the elimination of these causes;
- (e)~~[(5)]~~ Secure the enrollment in school of all students who should be enrolled and keep all enrolled students in reasonably regular attendance;
- (f)~~[(6)]~~ Visit the homes of students who are absent from school or who are reported to be in need of books, clothing, or parental care;
- (g)~~[(7)]~~ Provide for the interviewing of students and the parents of those students who quit school to determine the reasons for the decision. The interviews shall be conducted in a location that is nonthreatening for the students and parents and according to procedures and interview questions established by an administrative regulation promulgated by the Kentucky Board of Education. The questions shall be designed to provide data that can be used for local district and statewide research and decision-making. Data shall be reported annually to the local board of education and the Department of Education.
- (h)~~[(8)]~~ Report to the superintendent of schools in the district in which the student resides the number and cost of books and school supplies needed by any student whose parent, guardian, or custodian does not have sufficient income to furnish the child with the necessary books and school supplies;
- (i)~~[(9)]~~ Keep the records and make the reports that are required by law, by regulation of the Kentucky Board of Education, and by the superintendent and board of education.

(2) *A local school district superintendent may waive the requirement that a director of pupil personnel devote his or her entire time to his or her duties. The superintendent shall report the decision to the commissioner of education.*

Section 2. KRS 630.060 is amended to read as follows:

- (1) Information supplied by the child to a court designated worker during any process prior to the filing of the petition shall be deemed confidential and shall not be subject to subpoena or to disclosure without the written consent of the child.
- (2) No complaint shall be received by the court designated worker alleging habitual truancy unless an adequate assessment of the child has been performed pursuant to KRS 159.140(1)(c), (d), and (f)~~[(3), (4) and (6)]~~, unless it can be shown that the assessment could not be performed due to the child's failure to participate.

Section 3. Notwithstanding any other statute to the contrary, if a school district or school lengthens its school days during the 2002-2003 school year to make up instructional time missed because of weather, illness, or other emergency, for the purposes of fulfilling certified and classified personnel contracts the additional time shall be calculated as equivalent time to be applied toward the one hundred seventy-five (175) instructional days as required in KRS 158.070. The additional time shall also be considered as equivalent time to be applied toward the calculation of

service credit for retirement under KRS 161.500 for certified personnel and for classified personnel under KRS 78.615.

Section 4. Whereas numerous school districts have been forced to lengthen school days during the current school year in order for students to make up instructional time lost due to inclement weather and weather-related emergencies, 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 31, 2003

CHAPTER 160

(HB 252)

AN ACT relating to education and declaring an emergency.

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

Section 1. KRS 161.133 is amended to read as follows:

- (1) There is hereby established a "Teachers' National Certification Incentive Trust Fund" in the State Treasury for the purposes of:
 - (a) Funding stipends for teachers to prepare for certification by the National Board for Professional Teaching Standards;
 - (b) Reimbursing a portion of the certification fee to each teacher who is awarded national board certification;
 - (c) Reimbursing local boards of education for persons who serve as substitute teachers for national board certification candidates; and
 - (d) Funding stipends for national board certified teachers who serve as mentors to other teachers within the school district.
- (2) Appropriations by the General Assembly in each biennial budget for the purpose of supporting national board certification shall be credited to the fund and invested until needed. All money credited to the fund, including interest earned on money in the fund, shall be retained in the fund for reinvestment and used for the purposes of this section. Funds appropriated to the fund shall not lapse at the end of a fiscal year or a biennium.
- (3) The Education Professional Standards Board shall promulgate administrative regulations that establish the procedures for the administration of the funds as described in this section and the requirements for participating teachers and local boards of education. ***The board shall allocate only those funds to teachers or school districts for the purposes in this section for which other sources of funds are not being received. The board may limit the number of participants accepted in any given enrollment or application period due to the lack of available funds.***
- (4) Money in the fund shall be distributed to local boards of education and teachers by the Kentucky Department of Education in compliance with the administrative regulations promulgated by the board.

Section 2. KRS 161.134 is amended to read as follows:

- (1)
 - (a) A teacher pursuing national board certification shall receive from the fund established under KRS 161.133 a stipend of two hundred dollars (\$200) per day for two (2) days beyond the school contract year to prepare for the certification assessments.
 - (b) A local board of education shall provide five (5) days' released time during the school year for a teacher pursuing national board certification. The local board of education shall request reimbursement from the fund established under KRS 161.133 for substitute teacher pay based on the local board of education salary schedule for substitute teachers and for stipends paid to a teacher described in subsection (3) of this section. A local board of education may, at its own expense, provide additional released time for teachers pursuing national board certification.
 - (c) If a teacher does not successfully complete all assessments required for national board certification during a school year, the provisions in this subsection may be applied to a second school year.

- (d) *When funds are not available to fully fund the requirements of paragraphs (a), (b), and (c) of this subsection for all national board applicants, the board may prorate the specified reimbursements in paragraphs (a) and (b) and may limit the conditions under which provisions of paragraph (c) shall be applied to second year participants. The board shall establish the procedures for carrying out the provisions of this subsection in an administrative regulation.*
- (2) (a) As of July 14, 2000, a teacher who attains national board certification shall be reimbursed seventy-five percent (75%) of the certification fee for the initial ten (10) year certificate, *except the Education Professional Standards Board may decrease the percentage of reimbursement if a teacher receives payment other than a repayable loan for the same purpose from another source and the cumulative amount would exceed one hundred percent (100%) of the cost of the certification fee.*
- (b) *Fees for retaking one (1) or more entries of the national board assessment for the initial national board certificate and*~~[-] fees for renewal of the~~~~[-national board]~~ *certificate shall be at the teacher's expense.*
- (c) *Nothing in this subsection shall prohibit the board from reimbursing a percentage of the initial certification fee to a teacher who has received a repayable loan from a local board of education or other agency to offset initial costs.*
- (3) A national board certified teacher may receive a stipend in addition to his or her annual compensation for serving as a mentor to teachers within his or her school or school district. The Education Professional Standards Board shall promulgate administrative regulations~~[-by January 1, 2001,-]~~ under which a local board of education, in cooperation with the school-based decision making council, may establish a mentoring program within a school to utilize national board certified teachers. The administrative regulations shall specify the conditions for the mentoring program as well as the amount of the stipend that will be provided to a teacher serving as a mentor.

SECTION 3. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

Any applicant for emergency substitute teaching who possesses a bachelor's degree in any subject area from a regionally or nationally accredited institution of postsecondary education shall be granted a certificate for substitute teaching from the Education Professional Standards Board subject to the provisions of KRS 161.120(1). This certificate shall enable the applicant to apply for substitute teaching in any subject area for any grade level in any local school district.

Section 4. KRS 164.530 is amended to read as follows:

- (1) The Regional Compact of Southern States for Regional Educational Services [the text of which is set forth at length in Chapter 252 of the Acts of the 1950 General Assembly] be and the same is hereby approved and the State of Kentucky is hereby declared to be a party thereto, and the agreements, covenants, and obligations therein are declared to be binding upon the State of Kentucky.
- (2) The Governor shall sign an engrossed copy of the compact and sufficient copies be provided so that every state approving the compact shall have an engrossed copy.
- (3) (a) *The Kentucky members of the Legislative Advisory Council to the Southern Regional Education Board shall be represented by three (3) members of the Kentucky Senate, at least one (1) of whom shall be a member of the minority party, appointed by the President of the Senate; and three (3) members of the Kentucky House of Representatives, at least one (1) of whom shall be a member of the minority party, appointed by the Speaker of the House of Representatives.*
- (b) *The President of the Senate shall appoint five (5) delegates to the Legislative Work Conference and the Speaker of the House of Representatives shall appoint five (5) delegates to the Legislative Work Conference. The delegates shall include the Legislative Advisory Council members from each chamber.*

Section 5. Whereas the current appropriated and available funds are insufficient to provide the national board incentives as described in Sections 1 and 2 of this Act to all teachers who wish to participate, and whereas the Education Professional Standards Board needs statutory guidance on how to proceed under these circumstances, 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 31, 2003

CHAPTER 161**(HB 270)**

AN ACT relating to mental retardation and developmental disabilities.

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 Kentucky Council on Developmental Disabilities;
 - (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 as follows:
 1. Five (5) 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 ***for one (1) additional four (4) year term.***
- (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. KRS 210.577 is amended to read as follows:

- (1) The commission created in KRS 210.575 shall meet at least quarterly~~[during the 2000-2001 biennium, at least biennially thereafter,]~~ or upon the call of the chair, the request of four (4) or more members, or the request of the Governor.
- (2) The commission shall serve in an advisory capacity to accomplish the following:
 - (a) Advise the Governor and the General Assembly concerning the needs of persons with mental retardation and other developmental disabilities;
 - (b) Develop a statewide strategy to increase access to community-based services and supports for persons with mental retardation and other developmental disabilities. The strategy shall include:
 1. Identification of funding needs and related fiscal impact; and
 2. Criteria that establish priority for services~~[for individuals approved for slots]~~ that consider timeliness and service needs;
 - (c) Assess the need and potential utilization of specialized outpatient clinics for medical, dental, and special therapeutic services for persons with mental retardation and other developmental disabilities;
 - (d) Evaluate the effectiveness of state agencies and public and private service providers, including nonprofit and for-profit service providers, in:
 1. Dissemination of information and education;
 2. Providing outcome-oriented services; and
 3. Efficiently utilizing available~~[slots and]~~ resources, including blended funding streams;
 - (e) Develop a recommended comprehensive ten (10) year plan for placement of qualified persons in the most integrated setting appropriate to their needs;
 - (f) Recommend an effective quality assurance and consumer satisfaction monitoring program that includes recommendations as to the appropriate role of family members, persons with mental retardation and other developmental disabilities, and advocates in quality assurance efforts; and
 - (g) Advise the Governor and the General Assembly on whether the recommendations should be implemented by administrative regulations or proposed legislation~~[for the 2002 General Assembly]~~.
- ~~(3) Within six (6) months after April 14, 2000, the secretary of the Cabinet for Health Services shall present the plan to the Governor and the members of the General Assembly.~~
- ~~(4) The commission shall review the plan annually and shall submit annual updates no later than October 1 to the Governor and the Legislative Research Commission.~~
- ~~(5) The commission shall cease to exist four (4) years after April 14, 2000, unless otherwise reauthorized by the General Assembly.~~

Approved March 31, 2003

CHAPTER 162

(HB 303)

AN ACT relating to programs of significant importance to the citizens of the Commonwealth and declaring an emergency.

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:

All public high schools shall observe Veterans Day under this section.

- (1) ***On Veterans Day, or one (1) of the five (5) school days preceding Veterans Day, one (1) class period shall be devoted to the observance of Veterans Day.***
- (2) ***Students shall assemble in one (1) or more groups, as decided by the school principal, to attend the Veterans Day program.***

- (3) *The program shall be approved by the principal and, at a minimum, shall consist of a teacher and a veteran speaking on the meaning of Veterans Day.*
- (4) *To develop a Veterans Day program, Kentucky public high schools are encouraged to seek advice from the Kentucky Department of Military Affairs and veterans' service organizations, including but not limited to the American Legion and the Veterans of Foreign Wars.*

Section 2. (1) The Speaker of the House and the President of the Senate are directed to establish a nineteen (19) member task force on prescription drug abuse and the illegal diversion of prescription drugs in the Commonwealth and to select two co-chairs from among its members no later than thirty (30) days from the effective date of this Act. The task force shall initially meet no later than thirty (30) days after its co-chairs are selected, and shall report its recommendations as proposed legislation in accordance with subsection (2) of this section to the Interim Joint Committee on Judiciary no later than October 1, 2003. The task force shall cease to exist upon the making of its report.

- (2) The task force shall review the Kentucky All Schedule Prescription Electronic Reporting (KASPER) program and propose legislation to the General Assembly on:
 - (a) Improving the KASPER program's efficiency in recording information and responding to requests for information;
 - (b) Increasing the enforcement of reporting requirements of dispensers and prosecution for violations thereof;
 - (c) The use of data compiled by KASPER to isolate illegal drug diversion trends and to identify patterns of illegal drug diversion; and
 - (d) Enhancing the overall utility of KASPER for law enforcement and drug abuse prevention purposes.
- (3) The task force shall consist of the following members:
 - (a) Two (2) members from the Kentucky State Police, Division of Police Services, one (1) each to be selected by the Speaker of the House and the President of the Senate;
 - (b) Two (2) members from the United States Department of Justice, Drug Enforcement Administration, Office of Diversion Control, one (1) each to be selected by the Speaker of the House and the President of the Senate;
 - (c) Two (2) members from the Kentucky Cabinet for Health Services, Department for Public Health, one (1) each to be selected by the Speaker of the House and the President of the Senate;
 - (d) Two (2) members who are a Commonwealth's attorney, a full-time county attorney, or combination thereof, to be selected by the Speaker of the House and the President of the Senate;
 - (e) Two (2) members of the Kentucky Bar Association whose primary practice is devoted to criminal defense, one (1) each to be selected by the Speaker of the House and the President of the Senate from one (1) list of five (5) submitted to those legislators upon a vote of the Criminal Law Section of the Kentucky Bar Association;
 - (f) Two (2) members from the Kentucky Board of Medical Licensure, the Kentucky Board of Pharmacy, or combination thereof, one (1) each to be selected by the Speaker of the House and the President of the Senate;
 - (g) Two (2) members representing drug treatment programs licensed pursuant to KRS 222.231, one (1) each to be selected by the Speaker of the House and the President of the Senate;
 - (h) Two (2) members from citizen groups in the Commonwealth devoted to preventing drug abuse, one (1) each to be selected by the Speaker of the House and the President of the Senate;
 - (i) One (1) member of the Kentucky House of Representatives to be selected by the Speaker of the House;
 - (j) One (1) member of the Kentucky Senate to be selected by the President of the Senate; and
 - (k) The secretary of the Justice Cabinet, or a designee.
- (4) Except as provided in KRS 18A.200, members of the task force shall receive actual travel expenses while attending meetings.

- (5) The task force may employ consultants if approved by the Legislative Research Commission, request and hear testimony, and take other steps to ensure a thorough and reasonable study of the issue. The task force shall be staffed by the Legislative Research Commission.
- (6) Provisions of this section 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 3. Whereas prescription drug abuse and the illegal diversion of prescription drugs have become both an epidemic disease and the fastest growing crime trend in the Commonwealth, an emergency is declared to exist, and Section 2 of this Act takes effect upon its passage and signature by the Governor or upon its otherwise becoming law.

Approved March 31, 2003

CHAPTER 163

(HB 305)

AN ACT relating to fertilizer.

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

Section 1. KRS 250.381 is amended to read as follows:

- (1) There shall be paid to the Kentucky Agricultural Experiment Station for all fertilizers distributed in this state to nonregistrants or nonlicensees an inspection fee at the rate of fifty cents (\$0.50) per ton; except sales or exchanges between importers, manufacturers, distributors, licensees, or registrants are exempted.
- (2) Every registrant or licensee who distributes fertilizer in the state shall file on forms approved by the director a ~~monthly, quarterly, or semiannual~~ statement ~~for the reporting period~~ setting forth the number of net tons of each grade of fertilizer distributed in this state, ***the county of the consignee, the form in which the fertilizer was distributed, e.g. bags, bulk, or liquid, and whether the fertilizer was for farm or nonfarm use*** ~~during the period~~. The report shall be due on or before ***the last day of January, April, July, and October of each year*** ~~twenty (20) days following the close of the filing period~~ and upon the filing of the statement ***the registrant or licensee*** shall pay the inspection fee at the rate stated in subsection (1) of this section. If the tonnage report is not filed and the payment of inspection fees is not made within ***fifteen (15)*** ~~thirty (30)~~ days after the due date, a collection fee, amounting to ten percent (10%), with a minimum of fifty dollars (\$50), of the amount due shall be assessed against the registrant or licensee and added to the amount due.
- (3) ~~If/When~~ more than one (1) person is involved in the distribution of a fertilizer, the last person who has the fertilizer registered or is licensed and who distributed to a nonregistrant dealer or consumer shall be responsible for reporting the tonnage and paying the inspection fee, unless the report and payment ***are/is*** made by a prior distributor of the fertilizer.
- (4) On individual packages of fertilizer containing ten (10) pounds or less, there shall be paid, in lieu of the inspection fee of fifty cents (\$0.50) per ton required by subsection (1) of this section ~~and the tonnage report required by KRS 250.386~~, an annual inspection fee of fifty dollars (\$50) for each grade of each brand sold or distributed. If a person distributes fertilizer in packages of ten (10) pounds or less and in packages over ten (10) pounds, the annual fee shall apply only to that portion distributed in packages of ten (10) pounds or less.
- (5) Fees collected shall be used for the payment of the costs of ***inspecting*** ~~inspection~~, sampling, ***analyzing*** ~~analysis~~, and other expenses necessary for the administration of KRS 250.361 to 250.451.
- (6) ***No information furnished to the director under this section shall be disclosed in a way to divulge the operation of any person.***

Section 2. KRS 250.990 is amended to read as follows:

- (1) Any person who violates any of the provisions of KRS 250.021 to 250.111 ~~or/and~~ KRS 250.361 to 250.461 shall be fined not less than one hundred dollars (\$100), nor more than seven hundred fifty dollars (\$750).
- (2) Any person who shall impede, hinder, or otherwise prevent, or attempt to prevent, the director or his duly authorized agent in the performance of his duty in connection with this chapter, shall be guilty of a Class A misdemeanor.

- (3) Any person who violates subsection (6) of KRS 250.601 shall be guilty of a Class B misdemeanor.
- (4) Except as provided by subsection (3) of this section, any person who violates any of the provisions of KRS 250.491 to 250.631 may be fined up to one thousand dollars (\$1,000) for the third and subsequent violations made within a twenty-four (24) month period.

Section 3. The following KRS section is repealed:

250.386 Reporting of consignments to nonregistrant.

Approved March 31, 2003

CHAPTER 164

(HB 309)

AN ACT relating to wireless communications.

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

SECTION 1. A NEW SECTION OF KRS 11.501 TO 11.517 IS CREATED TO READ AS FOLLOWS:

The Kentucky Wireless Interoperability Executive Committee is hereby created to address communications interoperability, a homeland security issue which is critical to the ability of public safety first responders to communicate with each other by radio. The committee shall advise and make recommendations to the chief information officer regarding strategic wireless initiatives to achieve public safety voice and data communications interoperability.

SECTION 2. A NEW SECTION OF KRS 11.501 TO 11.517 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act, unless the context requires otherwise:

- (1) *"Architecture" means the design principles, physical structure, and functional organization of a land mobile radio system;*
- (2) *"Frequency" means for a periodic function, the number of cycles or events per unit time;*
- (3) *"Interoperability" means:*
 - (a) *The ability of systems, units, or forces to provide services to and accept services from other systems, units, or forces and to use the services so exchanged to enable them to operate effectively together; and*
 - (b) *The condition achieved among communications-electronics systems or items of communications-electronic equipment when information or services can be exchanged directly and satisfactorily between them and their users;*
- (4) *"Public safety working group" means a working group whose mission is to design and develop a seamless coordinated plan for the use of the public safety frequency spectrum as regulated by the Federal Communications Commission;*
- (5) *"Spectrum" means a usable radio frequency in the electromagnetic distribution; and*
- (6) *"Standards" means:*
 - (a) *Engineering and technical requirements that are necessary to be employed in the design of systems, units, or forces and to use the services so exchanged to enable them to operate effectively together; and*
 - (b) *Established protocol that provides a common interface.*

SECTION 3. A NEW SECTION OF KRS 11.501 TO 11.517 IS CREATED TO READ AS FOLLOWS:

- (1) *The chief information officer shall establish and implement a statewide public safety interoperability plan. This plan shall include the development and recommendation of architecture and standards that will insure that new or upgraded Commonwealth public safety communications systems will interoperate. The chief information officer shall provide direction, stewardship, leadership, and general oversight of information*

technology and information resources. The chief information officer shall report by September 15 annually to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection and the Interim Joint Committee on State Government on progress and activity by agencies of the Commonwealth to comply with standards to achieve public safety communications interoperability.

- (2) *The Kentucky Wireless Interoperability Executive Committee shall serve as the advisory body for all wireless communications strategies presented by agencies of the Commonwealth. The committee shall be responsible for the evaluation and recommendation of all wireless communications architecture, standards, and strategies presented by state agencies, and shall forward these to the chief information officer for final approval.*
- (3) *The Kentucky Wireless Interoperability Executive Committee shall consist of twenty one (21) members as follows:*
 - (a) *A person knowledgeable in the field of wireless communications appointed by the chief information officer who shall serve as chair;*
 - (b) *The executive director of the Office for Infrastructure Services, Governor's Office for Technology;*
 - (c) *The administrator of the Commercial Mobile Radio Service Emergency Telecommunications Board;*
 - (d) *The executive director of Kentucky Educational Television, or the executive director's designee;*
 - (e) *The chief information officer of the Transportation Cabinet;*
 - (f) *The chief information officer of the Justice Cabinet;*
 - (g) *The chief information officer of the Kentucky State Police;*
 - (h) *The commissioner of the Department of Fish and Wildlife Resources, Tourism Development Cabinet, or the commissioner's designee;*
 - (i) *The chief information officer of the National Resources and Environmental Protection Cabinet;*
 - (j) *The director of the Department of Emergency Management, Department of Military Affairs;*
 - (k) *The executive director of the Office for Security Coordination, Department of Military Affairs;*
 - (l) *The chief information officer, Department for Public Health, Cabinet for Health Services;*
 - (m) *A representative from an institution of postsecondary education appointed by the Governor from a list of three (3) names submitted by the president of the Council on Postsecondary Education;*
 - (n) *The executive director of the Center for Rural Development, or the executive director's designee;*
 - (o) *A representative from a municipal government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky League of Cities;*
 - (p) *A representative from a county government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Counties;*
 - (q) *A representative from a municipal police department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Chiefs of Police;*
 - (r) *A representative from a local fire department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Fire Chiefs;*
 - (s) *A representative from a county sheriff's department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Sheriffs' Association;*
 - (t) *A representative from a local Emergency Medical Services agency to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Board of Emergency Medical Services; and*
 - (u) *A representative from a local 911 dispatch center to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Chapter of the National Emergency Number Association/Association of Public Safety Communications Officials.*
- (4) *Appointed members of the committee shall serve for a two (2) year term. Members who serve by virtue of an office shall serve on the committee while they hold that office.*

- (5) *The committee shall meet quarterly, or as often as necessary for the conduct of its business. A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at committee meetings.*
- (6) *The committee shall be attached to the Governor's Office for Technology for administrative purposes only. Members shall not be paid, and shall not be reimbursed for travel expenses.*
- (7) *The Public Safety Working Group is hereby created for the primary purpose of fostering cooperation, planning, and development of the public safety frequency spectrum as regulated by the Federal Communications Commission, including the 700 MHz public safety band. The group shall endeavor to bring about a seamless, coordinated, and integrated public safety communications network for the safe, effective, and efficient protection of life and property. The Public Safety Working Group membership and other working group memberships deemed necessary shall be appointed by the chair of the Kentucky Wireless Interoperability Executive Committee.*
- (8) *The committee may establish additional working groups as determined by the committee.*

Approved March 31, 2003

CHAPTER 165

(HB 310)

AN ACT relating to driver training and declaring an emergency.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 332 IS CREATED TO READ AS FOLLOWS:

As used in this chapter:

- (1) *"Department" means the Department of Kentucky State Police;*
- (2) *"Commissioner" means the Commissioner of the Kentucky State Police;*
- (3) *"Driver training" means instruction of persons in the operation of motor vehicles which are not commercial motor vehicles;*
- (4) *"Driver training school" means any person, firm, partnership, association or corporation which offers a course of driver training for which a fee or tuition is charged;*
- (5) *"Person," when referring to a driver training school, means person, firm, partnership, association, or corporation.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 332 IS CREATED TO READ AS FOLLOWS:

- (1) *A person shall not operate, conduct, maintain or establish a driver training school unless the person holds a valid current license issued by the department.*
- (2) *A person shall not operate, conduct, maintain, or establish a driver training school unless the school has in its employ at least one (1) licensed driver training instructor.*
- (3) *A person shall not act as an instructor for a driver training school unless the person:*
 - (a) *Holds a valid current license as an instructor issued by the department; and*
 - (b) *Is employed by a licensed driver training school.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 332 IS CREATED TO READ AS FOLLOWS:

- (1) *Any person seeking a license to operate, conduct, maintain, or establish a driver training school shall apply to the department on forms prepared and furnished by the department. The notarized application shall include the following information:*
 - (a) *The title or name of the school, the names of the owners of the school and, if the owner is to be a corporation, the names and addresses of the officers of the corporation;*

- (b) *Except for corporations, a statement that the owners of the driver training school are each twenty-one (21) years of age or over, are residents of this state, and have been for at least one (1) year next preceding the application for the driver training school license, and are each of good moral character;*
 - (c) *A description of the established place of business together with the hours during which the driver training school is conducted and a description of the equipment and facilities used in driver training;*
 - (d) *Evidence of liability insurance coverage of the driver training school, the instructor, and students of the driver training school while operating driver training school equipment. The insurance shall have minimum limits of not less than twenty-five thousand dollars (\$25,000) for bodily injury or death of one (1) person in any one (1) accident and subject to the limit for any one (1) person, fifty thousand dollars (\$50,000) for bodily injury or death of two (2) or more persons in any one (1) accident and ten thousand dollars (\$10,000) for damage to the property of others in any one (1) accident. Evidence of insurance coverage shall also provide that the insurance coverage shall not be canceled except after ten (10) days prior notice in writing by the carrier to the secretary. Upon request by an applicant, the department shall review an application and provide a letter to the applicant that a proposed driver training school has met all preliminary requirements for approval, except the provisions of this paragraph. The letter may be used by the applicant to help secure the liability insurance coverage needed under this paragraph to obtain a license to operate a school. A letter provided under this paragraph shall not be construed as approval to perform driver's training or to operate a school.*
- (2) *Each original application for a license to operate a driver training school and each application for renewal of a license to operate a driver training school shall be accompanied by the payment of a fee of three hundred dollars (\$300) to the State Treasurer.*
 - (3) *Any person seeking a license to act as a driver training instructor shall apply to the department on forms prepared and furnished by the department setting forth that the applicant is twenty-one (21) years of age or older; is of good moral character; is a high school graduate or has the equivalent of a high school education, or has equivalent experience; and holds a current and valid operator's license issued by the Transportation Cabinet.*
 - (4) *Each original application for a license as a driver training instructor and each application for renewal of a license as a driver training instructor shall be accompanied by the payment of a fee of fifty dollars (\$50) to the State Treasurer.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 332 IS CREATED TO READ AS FOLLOWS:

- (1) *Upon receipt of a satisfactory application accompanied by the fee required under Section 3 of this Act, the commissioner shall issue a license to the applicant.*
- (2) *If the license is issued to a driver training school, it shall be posted and at all times displayed in a conspicuous place so that all persons visiting the school may readily see the license.*
- (3) *If the license is issued to a driver training instructor, the person shall carry the license at all times during which the person is actually giving instruction to any student. Upon request, the instructor shall exhibit the license to any student taking instruction from him or her and to any other person authorized by law to examine operator's licenses.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 332 IS CREATED TO READ AS FOLLOWS:

- (1) *Every license issued for the operation of a driver training school shall expire on June 30 following the date of the issuance unless revoked or canceled.*
- (2) *Before June 1 of each year every driver training school shall apply for renewal of its license. The application shall be on forms prepared and furnished by the department.*
- (3) *Every license issued to a driver training instructor shall expire on June 30 following the date of the issuance unless revoked or canceled.*
- (4) *Before June 1 of each year every driver training instructor shall apply for renewal of his or her license. The application shall be on forms prepared and furnished by the department.*
- (5) *All fees collected under this chapter or the administrative regulations promulgated pursuant to this chapter shall be paid into the State Treasury and credited to a trust and agency fund to be used in defraying the*

costs and expenses of the administration of this chapter. No part of this fund shall revert to the general funds of the Commonwealth.

SECTION 6. A NEW SECTION OF KRS CHAPTER 332 IS CREATED TO READ AS FOLLOWS:

The commissioner shall, upon receipt of satisfactory evidence, suspend, revoke, refuse to issue or refuse to renew the license of a driver training school or a driver training instructor if:

- (1) The licensee fails or refuses to comply with the provisions of this chapter or any administrative regulation promulgated pursuant to this chapter;*
- (2) The licensee has made a false material statement or has concealed a material fact in connection with his or her application;*
- (3) The licensee or any partner, or other person directly interested in the driver training school held a license issued under this chapter which was revoked or suspended and not reinstated;*
- (4) The licensee has been guilty of a fraudulent practice in attempting to obtain for himself, herself, or another a license to operate a motor vehicle;*
- (5) Written notice of the cancellation of insurance required by Section 3 of this Act is received by the commissioner and the licensee does not present satisfactory evidence of insurance to the commissioner prior to the effective date of the cancellation.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 332 IS CREATED TO READ AS FOLLOWS:

Any person whose license to conduct a driver training school or act as a driver training instructor has been suspended or revoked, or whose application for issue or renewal of a license is refused, may request a hearing. The hearing request shall be in writing addressed to the commissioner who shall conduct a hearing thereon as soon as possible. The hearing shall be conducted in accordance with KRS Chapter 13B. Any person may appeal from the final order of the commissioner in the Franklin Circuit Court in accordance with KRS Chapter 13B.

SECTION 8. A NEW SECTION OF KRS CHAPTER 332 IS CREATED TO READ AS FOLLOWS:

- (1) Every driver training school and driver training instructor shall maintain records showing the name, address, and instruction permit or operator's license number of each person to whom instruction is given. The records shall also indicate the type of instruction given and the length of time of the instruction.*
- (2) The records required by this section to be maintained shall be available for inspection by the department, but shall otherwise remain confidential.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 332 IS CREATED TO READ AS FOLLOWS:

The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to carry out the provisions of this chapter.

SECTION 10. A NEW SECTION OF KRS CHAPTER 332 IS CREATED TO READ AS FOLLOWS:

This chapter shall not apply to:

- (1) Any school or educational institution which offers to full-time, regularly enrolled students as a part of its curriculum a course in driving instruction;*
- (2) Automobile dealers and their salesmen who give instruction without charge to purchasers of motor vehicles;*
- (3) Employers who give instruction without charge to their employees; or*
- (4) Any college within the Kentucky Community and Technical College System, which is located in a county where there is not a school licensed pursuant to this chapter, and which offers to part-time students a course in drivers' instruction.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 332 IS CREATED TO READ AS FOLLOWS:

Any person who violates Section 2 of this Act, subsections (2) and (3) of Section 4 of this Act, or Section 8 of this Act shall be fined not less than one hundred dollars (\$100) nor more than three hundred dollars (\$300) or be imprisoned for not less than ten (10) days nor more than thirty (30) days, or both.

Section 12. Whereas, it is critical to the interests of public safety of the citizens of the Commonwealth of Kentucky that private driving schools be properly licensed and regulated; and whereas, the 2002 Session of the Kentucky General Assembly enacted House Bill 190, which strengthened requirements for commercial driver's licensing schools, but also repealed those provision of Kentucky Revised Statute Chapter 332 providing for the licensing and regulation of private driving schools, raising questions as to how these schools could or should be regulated and licensed, 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 31, 2003

CHAPTER 166

(HB 355)

AN ACT relating to foster care and adoption.

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

Section 1. KRS 199.462 is amended to read as follows:

- (1) ***Before an applicant is approved to provide foster care or relative caregiver services to a child, or approved to receive a child for adoption***~~*Before any applicant to provide foster care home services to a minor may be approved,*~~ the Cabinet for Families and Children shall:
 - (a) ***Require a criminal background investigation of the applicant and any of the applicant's adult household members by means of a fingerprint check by the Department of State Police and the Federal Bureau of Investigation; or***
 - (b) Request from the Justice Cabinet records of all conviction information for the applicant ***and any of the applicant's adult household members***. The Justice Cabinet shall furnish the information to the Cabinet for Families and Children and shall also send a copy of the information to the applicant.
- (2) The request for records shall be on a form approved by the Justice Cabinet and the Justice Cabinet may charge a fee to be paid by the applicant for the actual cost of processing the request.
- (3) ***During a certified adoptive or foster home's annual reevaluation, the Cabinet for Families and Children may require a background investigation for each adult household member of the certified adoptive or foster home under subsections (1) and (2) of this section.***
- (4) ***The Cabinet for Families and Children shall promulgate an administrative regulation to implement this section.***

Section 2. KRS 199.520 is amended to read as follows:

- (1) After hearing the case, the court shall enter a judgment of adoption, if it finds that the facts stated in the petition were established; that all legal requirements, including jurisdiction, relating to the adoption have been complied with; that the petitioners are of good moral character, of reputable standing in the community and of ability to properly maintain and educate the child; and that the best interest of the child will be promoted by the adoption and that the child is suitable for adoption. In the judgment, the name of the child shall be changed to conform with the prayer of the petition. The judgment and all orders required to be entered and recorded in the order book, including the caption, shall contain only the names of the petitioners and the proposed adopted name of the child, without any reference to its former name or the names of its birth parents.
- (2) Upon entry of the judgment of adoption, from and after the date of the filing of the petition, the child shall be deemed the child of petitioners and shall be considered for purposes of inheritance and succession and for all other legal considerations, the natural child of the parents adopting it the same as if born of their bodies. Upon granting an adoption, all legal relationship between the adopted child and the biological parents shall be terminated except the relationship of a biological parent who is the spouse of an adoptive parent.
- (3) The clerk of the court shall notify the cabinet of any action of the court with respect to entering a judgment granting an adoption, the amendment of an adoption, or the denial or dismissal of a petition for adoption.
- (4) (a) The health history ***and other nonidentifying background information*** of biological parents and blood relatives of the adopted person, in writing, on a standardized form, provided by the cabinet, if known, shall be given by the cabinet or child-placing agency which has the information to the adoptive parents

and to the Circuit Court not later than the date of finalization of the adoption proceedings. This information shall include the results of any tests for HIV or hepatitis A, B, and C; and

- (b) The information provided for in paragraph (a) of this subsection, if known, shall, upon the request in person or in writing of the adult adopted person be made available in writing to that person. The information shall not be made available if it is of a nature that would tend to identify the biological parents of the adopted person except as provided in KRS 199.570 and 199.572.

Section 3. KRS 337.010 is amended to read as follows:

- (1) As used in this chapter, unless the context requires otherwise:
 - (a) "Commissioner" means commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of the Labor Cabinet;
 - (b) "Department" means Department of Workplace Standards in the Labor Cabinet;
 - (c) "Wages" includes any compensation due to an employee by reason of his employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;
 - (d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and
 - (e) "Employee" is any person employed by or suffered or permitted to work for an employer.
- (2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:
 - (a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:
 1. Any individual employed in agriculture;
 2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the commissioner;
 3. Any individual employed by the United States;
 4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;
 5. Any individual classified and given a certificate by the commissioner showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the commissioner. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the commissioner and stated in the certificate issued to the person;
 6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars (\$95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;
 7. Any individual employed as a baby-sitter in an employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;
 8. Any individual engaged in the delivery of newspapers to the consumer;

9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the secretary of the Personnel Cabinet shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;
 10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year;~~for~~
 11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for Families and Children under KRS 199.640 to 199.670; *or*
 12. *Any individual whose function is to provide twenty-four (24) hour residential care in his or her own home as a family caregiver and who is approved to provide family caregiver services to an adult with a disability through a contractual relationship with a community mental health-mental retardation board established under KRS 210.370 to 210.460, or is certified or licensed by the Cabinet for Health Services or the Cabinet for Families and Children to provide adult foster care.*
- (b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;
 - (c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;
 - (d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars (\$30) per month in tips; and
 - (e) "U.S.C." means the United States Code.
- (3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:
- (a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars (\$250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;
 - (b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;
 - (c)
 1. "Locality" shall be determined by the commissioner. The commissioner may designate more than one (1) county as a single locality, but if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The commissioner shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and
 2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he shall not designate less than an entire county as a locality;

- (d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works, and any "private provider", as defined in KRS 197.500, which enters into any contract for the construction of an "adult correctional facility", as defined in KRS 197.500; and
 - (e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities", as defined in KRS 197.500, constructed under contract with any public authority.
- (4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

Approved March 31, 2003

CHAPTER 167

(HB 357)

AN ACT relating to government.

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

Section 1. KRS 74.420 is amended to read as follows:

As used in KRS 74.420 to 74.520, unless the context requires otherwise:

- (1) "Sources of supply of water" means and includes any or all of the following: wells, impounding reservoirs, standpipes, storage tanks, pumps, machinery, purification plants, softening apparatus, trunk mains, and all other appurtenances useful in connection with developing and furnishing a supply of water under pressure into the water distribution systems of the cities,~~[-or]~~ water districts, ***water associations or federal agencies*** which are represented by a commission created pursuant to the provisions of KRS 74.420 to 74.520.
- (2) "Water association" means a nonprofit corporation formed for the purpose of furnishing water services to the general public pursuant to KRS Chapter 273.

Section 2. KRS 74.430 is amended to read as follows:

In the interest of the public health and for the purpose of providing an adequate supply of water to cities, water associations,~~[-and]~~ water districts, ***and facilities owned or operated by federal agencies***, any two (2) or more cities, or any two (2) or more water districts organized under this chapter, or any combination of cities, water districts,~~[-and]~~ water associations, ***and federal agencies*** may jointly acquire, either by purchase or construction, sources of supply of water and may operate jointly the sources of supply of water and improve and extend them in the manner provided in KRS 74.420 to 74.520. The governing body of any city, water association,~~[-or]~~ water district, ***or federal agency*** desiring to avail themselves of the provisions of KRS 74.420 to 74.520 shall adopt a resolution or ordinance determining and electing to acquire and operate jointly sources of supply of water.

Section 3. KRS 74.440 is amended to read as follows:

- (1) Upon the adoption of an ordinance or resolution by the governing body of each city, water association, or water district, ***or upon a decision by a federal agency***, a certified copy of it shall be filed with the county judge/executive of the county in which the cities, water associations,~~[-or]~~ water districts, ***or federal agencies*** proposing the creation of the commission having the greatest aggregate population are situated; and upon the filing, the county judge/executive shall by appropriate order set a date for a public hearing on the creation of the commission and shall give reasonable notice of the public hearing, which notice may be given in the manner as provided by KRS Chapter 424. Any customer of the water systems or resident of the cities proposing the creation of the commission may file objections; and at the public hearing if the county

judge/executive finds that the establishment of the commission is reasonably necessary or advantageous for the public health, convenience, and comfort of the customers of all the water systems which proposed the creation of the commission, he shall make an order establishing the commission and designating it by name which name shall include the words "water commission."

- (2) If the county judge/executive does not find that the creation of a commission is reasonably necessary or advantageous, he shall make an appropriate order in this regard. Any party in interest may appeal the order to the Circuit Court or the cities, water associations, and water districts may revise and readopt the ordinances or resolutions, ***or the federal agency may revise its decision.***

Section 4. KRS 74.450 is amended to read as follows:

- (1) After the county judge/executive has made an order creating a water commission, the presiding officer of each of the cities, water associations, or water districts which proposed the creation of the commission with the approval of its governing body, ***and each federal agency which joined in a proposal*** shall appoint one (1) commissioner. If the number of commissioners so appointed by the presiding officers of the cities, water associations, or water districts ***and by the federal agency or agencies*** shall equal or exceed five (5), no further commissioners shall be appointed and the commissioners shall be and constitute the water commission.
- (2) If the number of commissioners appointed by the presiding officers of the cities, water associations, ~~or~~ water districts, ***or federal agencies*** shall be less than five (5), the county judge/executive who entered the order creating the commission shall appoint additional commissioners to the commission as necessary to make the number of commissioners equal five (5). The commissioners shall constitute the commission, which shall be a public corporation and a public body corporate and politic with the powers and duties specified in KRS 74.420 to 74.520. The commission may in its corporate name contract and be contracted with, sue and be sued, adopt and alter at its pleasure a corporate seal, and purchase, own, hold, and dispose of all real and personal property necessary for carrying out its corporate purpose under KRS 74.420 to 74.520.
- (3) The commissioners originally appointed shall meet and select by lot their respective terms of office so that approximately one-third (1/3) of the commissioners shall serve for a term of two (2) years, a like number for a term of three (3) years and the remaining commissioner or commissioners for a term of four (4) years. The terms shall be deemed to commence from the first day of the month during which the order of the county judge/executive creating the commission was entered.
- (4) Upon the expiration of the term of office of each of the commissioners, a successor shall be appointed to succeed him for a term of four (4) years and the appointment shall be made in the same manner as the original appointment.
- (5) Each commissioner shall serve until his successor has been appointed and has been qualified. Each commissioner shall be a resident of the service area of the water systems ***or an employee of the federal agency*** which ~~is~~ represented by the commission. A commissioner shall be eligible for reappointment upon the expiration of his term. A vacancy shall be filled for the balance of the unexpired term in the same manner as that prescribed for the appointment of the person who has ceased to hold office. Each commissioner shall receive the same compensation, which shall not be more than five hundred dollars (\$500) per year, to be fixed by the commission and to be paid out of commission funds, ***except that a commissioner representing a federal agency shall serve without compensation.*** Each commissioner shall furnish a bond for faithful performance of his official duties. This bond shall not be less than five thousand dollars (\$5,000); the amount shall be fixed by the commission; and its cost shall be paid by the commission.
- (6) Each commissioner may be removed by the official by whom he was appointed, for cause, after hearing by the appointing official and after at least ten (10) days' notice in writing has been given to the commissioner, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the appointing official shall be final and removal results in vacancy in the office. ***A federal agency shall determine its own appointment and removal procedures for its representative.***

Section 5. KRS 74.460 is amended to read as follows:

The commission shall organize by appointing a chairman from its own members and a secretary and a treasurer, who need not be commissioners. The secretary shall keep a record of all proceedings of the commission which shall be available for inspection as other public records. The treasurer shall be the lawful custodian of all funds of the commission and shall pay same out on orders authorized or approved by the commission. The secretary and treasurer shall perform other duties appertaining to the affairs of the commission and shall receive the salaries prescribed by the commission, and either or both may be required to furnish bonds in sums to be fixed by the commission for the use

and benefit of the commission. The commission shall adopt its own rules of procedure and provide for its meetings. The commission shall have full and complete supervision, management, and control of the sources of supply of water as provided in the ordinances or resolutions for acquiring and operating them, and in their maintenance, operation, and extension. The commission may contract with cities, water associations,~~[-or-]~~ water districts, **or federal agencies** which are represented by the commission for furnishing a supply of water to the parties for a period not exceeding fifty (50) years and the governing bodies of the cities, water associations,~~[-or-]~~ water districts, **or federal agencies** may enter into the contracts with the commission. For the purpose of acquiring all or any part of its sources of supply of water, the commission may purchase from cities, water associations,~~[-or-]~~ water districts, **or federal agencies** which are represented by the commission for mutually agreed terms without regard to actual value any sources of supply of water separate and apart from the water distribution systems of the parties; and the cities, water associations,~~[-or-]~~ water districts, **or federal agencies** may convey the sources of supply of water to the commission without any election or voter approval notwithstanding any provision of any other law to the contrary. If any city, water association, or water district has outstanding any obligations which by their terms are in any manner payable from the revenues of their waterworks distribution system, the proceeds received from any conveyance shall be sufficient to retire all of the outstanding obligations, including all interest accrued and to accrue thereon to the date of retirement thereof; and the proceeds when received shall be set aside in a special fund and used for that purpose. The commission may appoint or contract for the services of officers, agents, and employees, including engineers, attorneys, accountants, fiscal agents, and other professional persons, prescribe their duties, and fix their compensation.

Section 6. KRS 74.470 is amended to read as follows:

For the purpose of acquiring, either by purchase or construction, sources of supply of water or for making improvements and extensions to sources of supply of water, a commission may issue revenue bonds payable solely from the revenues to be derived pursuant to water supply contracts with the cities, water districts, water associations, **federal agencies**, political subdivisions, or other public bodies as provided in KRS 74.420 to 74.520. For that purpose the commission may issue revenue bonds and be vested with all of the powers, duties, and responsibilities, including the power of condemnation, delegated and granted to a "governmental agency" under the terms and provisions of KRS Chapter 58, as the law now exists or as it may hereafter be amended. Under the law, the term "governmental agency" means the "commission" and the term "public project" means "sources of supply of water."

Section 7. KRS 74.480 is amended to read as follows:

- (1) When a commission has been created, the cities, water associations,~~[-or-]~~ water districts, **or federal agencies** represented by the commission shall contract with the commission for water and the contracts may provide that the sources of supply of water of the commission shall be the exclusive water supply for the respective water distribution systems. These cities, water associations, or water districts shall establish charges and rates for water supplied by them to consumers sufficient at all times:
 - (a) To pay the principal of and interest on all outstanding obligations of the cities, water associations, or water districts which by their terms are payable in any manner from the revenues of their respective waterworks distribution systems; and
 - (b) To pay the cost of operation and maintenance of their respective waterworks distribution systems, including the payments to be made to the commission pursuant to contracts for the purchase of water by those cities, water associations, or water districts.
- (2) The commission shall establish charges and rates for water supplied to those cities, water associations,~~[-or-]~~ water districts, **or federal agencies** represented by the commission sufficient at all times:
 - (a) To pay the principal of and interest on the revenue bonds issued by the commission under the provisions of KRS 74.420 to 74.520;
 - (b) To pay the cost of operation and maintenance of the sources of supply of water; and
 - (c) To provide an adequate fund for renewals, replacements, and reserves.

Contracts entered into between the commission and the cities, water associations, or water districts shall include covenants for the establishment of rates and charges as provided in this section.

Section 8. KRS 74.490 is amended to read as follows:

The commission shall also have the right to supply water to any city, water association, water district, political subdivision, **federal agency** or other public body, or any water distribution system regulated by the Public Service

Commission, in addition to the cities, water associations,~~[-or]~~ water districts, *or federal agencies* which are represented by the commission, upon the payments, terms, and conditions mutually agreed upon. No capital expenditures shall be made by the commission for the purpose of furnishing water to the other party or parties. Any contract entered into to supply water to a city, water association, water district, *federal agency*, political subdivision, or other public body shall provide that payments to be made thereunder shall be solely from the revenues to be derived by the city, *water association*, water district, political subdivision, or other public body from the operation of the water works distribution system thereof; and the contract shall be a continuing, valid, and binding obligation of the city, *water association*, *federal agency*, water district, political subdivision, or other public body, payable from the revenues for a period of years, not to exceed fifty (50), as provided in the contract. Any contract shall not be a debt of any city, water association, water district, *federal agency*, political subdivision, or other public body within the meaning of any statutory or constitutional limitations.

Section 9. KRS 74.510 is amended to read as follows:

Since the activities of a commission created pursuant to KRS 74.420 to 74.520 are limited to the supply of water under contract to cities, *federal agencies*, or to water distribution systems which are regulated by the Public Service Commission, including water districts and water associations, as provided in KRS 74.420 to 74.520, and such a commission has no authority to supply water to individual private consumers, such a commission shall not be deemed to constitute a "utility" or "person" within the meaning and application of KRS Chapter 278 and a commission shall not be subject to the jurisdiction of the Public Service Commission.

Section 10. KRS 100.187 is amended to read as follows:

The comprehensive plan shall contain, as a minimum, the following elements:

- (1) A statement of goals and objectives, which shall serve as a guide for the physical development and economic and social well-being of the planning unit;
- (2) A land use plan element, which shall show proposals for the most appropriate, economic, desirable, and feasible patterns for the general location, character, extent, and interrelationship of the manner in which the community should use its public and private land at specified times as far into the future as is reasonable to foresee. Such land uses may cover, without being limited to, public and private, residential, commercial, industrial, agricultural, and recreational land uses;
- (3) A transportation plan element, which shall show proposals for the most desirable, appropriate, economic, and feasible pattern for the general location, character, and extent of the channels, routes, and terminals for transportation facilities for the circulation of persons and goods for specified times as far into the future as is reasonable to foresee. The channels, routes, and terminals may include, without being limited to, all classes of highways or streets, railways, airways, waterways; routings for mass transit trucks, etc.; and terminals for people, goods, or vehicles related to highways, airways, waterways, and railways;
- (4) A community facilities plan element which shall show proposals for the most desirable, appropriate, economic, and feasible pattern for the general location, character, and the extent of public and semipublic buildings, land, and facilities for specified times as far into the future as is reasonable to foresee. The facilities may include, without being limited to, parks and recreation, schools and other educational or cultural facilities, libraries, churches, hospitals, social welfare and medical facilities, utilities, fire stations, police stations, jails, or other public office or administrative facilities;~~[-and]~~
- (5) *(a) Provisions for the accommodation of all military installations greater than or equal in area to three hundred (300) acres that are:*
 1. *Contained wholly or partially within the planning unit's boundaries;*
 2. *Abutting the planning unit's boundaries; or*
 3. *Contained within or abutting any county that contains a planning unit.**(b) The goal of providing for the accommodation of these military installations shall be to minimize conflicts between the relevant military installations and the planning unit's residential population. These provisions shall be made after consultation with the relevant installation's command authorities to determine the needs of any the relevant military installations. These consultations shall include but not be limited to questions of installation expansion, environmental impact, issues of installation safety, and issues relating to air space usage, to include noise pollution, air pollution, and air safety concerns; and*

- (6) The comprehensive plan may include any additional elements such as, without being limited to, community renewal, housing, flood control, pollution, conservation, natural resources, regional impact, historic preservation, and other programs which in the judgment of the planning commission will further serve the purposes of the comprehensive plan.

Approved March 31, 2003

CHAPTER 168

(HB 397)

AN ACT relating to the Kentucky Employers' Mutual Insurance Authority.

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

Section 1. KRS 342.831 is amended to read as follows:

- (1) For marketing and sales purposes, the authority shall utilize only agents duly and legally licensed and in good standing in accordance with the provisions of KRS Chapter 304 to sell coverage provided by the authority. ***The authority shall not be required to appoint agents.***
- (2) Commissions paid for marketing or sales by an insurance agent shall be determined by the manager, subject to the approval of the board.

Approved March 31, 2003

CHAPTER 169

(HB 461)

AN ACT relating to retirement and declaring an emergency.

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

Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

- (1) "System" means the State Police Retirement System created by KRS 16.510 to 16.652;
- (2) "Board" means the board of trustees of the Kentucky Retirement Systems;
- (3) "Employer" or "State Police" means the Department of State Police, or its successor;
- (4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided;
- (5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;
- (6) "Service" means the total of current service and prior service;
- (7) "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 member's contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed, including interest credited;
- (8) "Creditable compensation" means all salary and wages, 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 16.545(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. Living allowances, expense reimbursements, lump-sum payments 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. ***Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);***

- (9) "Final compensation" at any time means the creditable compensation of a 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 the 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;
- (10) "Final rate of pay" means the actual rate upon which earnings of a member 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 16.545(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 (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;
- (11) "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;
- (12) "Retirement allowance" means the retirement payments to which a retired member is entitled;
- (13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of actuarial tables adopted by the board, except that, 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;
- (14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of State Police;
- (15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959;
- (16) "Disability retirement date" means the first day of the month following total and permanent disability or hazardous disability;
- (17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);
- (18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;
- (19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of duty" shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description;
- (20) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;
- (21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;
- (22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;
- (23) "Hazardous disability" as used in KRS 16.510 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;

- (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" does 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) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (29) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, 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;
- (30) "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;
- (31) "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;
- (32) "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;
- (33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543; and
- (34) "Month" means a calendar month.

Section 2. KRS 16.642 is amended to read as follows:

- (1) The board shall be the trustee of the several funds created by KRS 16.505 to 16.652 and shall have full power to invest and reinvest such funds, subject to the limitations that no investments shall be made except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state, except that the board may, at its discretion, purchase common stock in corporations that do not have a record of paying dividends to their stockholders. Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.
- (2) All registered securities acquired under authority of KRS 16.505 to 16.652 shall be registered in the name "Kentucky Retirement Systems" or nominee name as provided by KRS 287.225, and every change in registration, by reason of sale or assignment of such securities shall be accomplished by the signatures of the **chair of the board of trustees**~~{chairman}~~ or a trustee appointed by the **chair**~~{chairman}~~ and the **executive director of the systems**~~{general manager of the board of trustees}~~.
- (3) The board, in keeping with its responsibility as trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

Section 3. 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, and 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, and 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;
- (30) Direct deposit of recipient's retirement allowance as provided in KRS 61.623;
- (31) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525;~~and~~
- (32) Payment of small amounts upon death of member, retiree, or recipient without formal administration of the estate as provided in KRS 61.703; *and*
- (33) *Suspension of retirement payments on reemployment, reinstatement, recomputation of allowance, waiver of provisions in certain instances, reemployment in a different position, as provided for by KRS 61.637.*

Section 4. KRS 48.315 is amended to read as follows:

- (1) The General Assembly may provide in a budget bill for the transfer to the general fund for the purpose of the general fund all or part of the agency funds, special funds, or other funds established under the provisions of KRS 15.430; ~~16.565;~~ 21.347; 21.540; 21.560; 42.500; 47.010; 48.010(13)(g); 56.100; 61.470; ~~61.580;~~ 64.345; 64.350; 64.355; ~~78.650;~~ 95A.220; 136.392; 138.510; 150.150; 161.420; 161.430; 164A.020; 164A.110; 164A.800; 164A.810; 216A.110; 230.218; 230.400; 230.770; 235.330; 248.540; 248.550; 278.130; 278.150; 287.485; 304.35-030; 311.450; 311.610; 312.019; 313.350; 314.161; 315.195; 316.210; 317.530; 317A.080; 319.131; 320.360; 321.320; 322.290; 322.330; 322.420; 323.080; 323.190; 323.210; 323A.060; 323A.190; 323A.210; 324.286; 324.410; 325.250; 326.120; 327.080; 330.050; 334.160; 334A.120; 335.140; 342.122; 342.480, etc.
- (2) The transfer of moneys from the agency funds, special funds, or other funds to the general fund provided for in subsection (1) of this section shall be for the period of time specified in the budget bill.
- (3) Any provisions of any statute in conflict with the provisions of subsections (1) and (2) of this section are hereby suspended or modified. Any suspension or modification shall not extend beyond the duration of the budget bill.

Section 5. 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 serves in the position;
- (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 the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

- (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. 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, lump-sum payments 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. ***Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);***
- (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) regular legislative sessions;
- (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 purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, 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 6. KRS 61.520 is amended to read as follows:

- (1) Each department ***determined by the board to be eligible and qualified for participation*** shall participate in the system when the Governor by appropriate executive order, the authority to issue such executive order being granted, directs such department to participate in the system. The effective date of such participation shall be ***determined by the board and*** fixed by the Governor in his executive order.
- (2)
 - (a) Notwithstanding the provisions of subsection (1) of this section the Governor is authorized to permit any state college or university, which he directs by appropriate executive order to participate in the system after January 1, 1972, to include its noninstructional employees in the membership of the system while excluding the instructional employees of the state college or university from membership.
 - (b) All employees of an agency participating under authority of subsection (2)(a) of this section shall be considered noninstructional employees except the members of the instructional staff of the state college or university who are responsible for teaching and the administrative positions which are included in the Teachers' Insurance and Annuity Association (TIAA) or the Kentucky Teachers' Retirement System.
- (3) All executive orders issued under authority of this section since July 1, 1956, are hereby ratified by the General Assembly and each participating and contributing department, board, agency, corporation, mental health-mental retardation board, or entity participating since that date under such executive order is hereby declared to be a participating department under the Kentucky Employees Retirement System.
- (4) Once a department participates it shall ~~thereafter~~ continue to participate ***as long as it remains qualified***. Any position initially required to participate in the Kentucky Employees Retirement System shall continue to participate as long as the position exists.

Section 7. KRS 61.526 is amended to read as follows:

- (1) Each employee on becoming a member of the Kentucky Employees Retirement System shall have on file in the retirement office, in the form as the board may prescribe, a statement of facts pertaining to the member. The statement shall include a record of military service, previous employment with the employer, and such other information as the system may require.

- (2) If the records of the Personnel Cabinet or the department employing the member during the time the service was rendered do not substantiate the statement of service, the member shall be notified of any discrepancy. The member shall be advised that he has the responsibility of supplying verification of any unsubstantiated service.
- (3) At the request of the member, or the beneficiary if the member is deceased, the ***executive director***~~[general manager]~~ shall arrange a time and place to receive additional information in regard to the unverified service. After filing the request, the member or the beneficiary if the member is deceased, shall have a reasonable time but no more than six (6) months to present the additional information to substantiate the unverified service.
- (4) The system may at any time conduct an audit of the employing department pursuant to KRS 61.675.

Section 8. KRS 61.540 is amended to read as follows:

- (1) Under administrative regulations promulgated by the board, each member and each employer shall have on file at the retirement office, in the form the board prescribes, a statement of the facts pertaining to the member and other information the system requires. Until the statement is filed, no member or his beneficiary shall be eligible to receive any benefits under KRS 61.510 to 61.705 and 78.510 to 78.852.
- (2) The system shall prepare and make available upon request to all members a summary plan description, written in a manner that can be understood by the average member or beneficiary, and sufficiently accurate and comprehensive to reasonably apprise them of their rights and obligations under the provisions of KRS 16.505 to 16.652, 61.510 to 61.705 and 78.510 to 78.852.
- (3) The summary plan description shall include:
 - (a) The name of the retirement system, the name and address of the ***executive director***~~[general manager]~~, and the name, address and title of each member of the board of trustees;
 - (b) The name and address of the person designated for the service of legal process;
 - (c) The system's requirements for participation and benefits;
 - (d) A description of retirement formulas for normal, early and disability retirement, and survivor benefits;
 - (e) A description of the requirements for vesting of pension benefits;
 - (f) A reasonable list of circumstances which would result in disqualification, ineligibility, or denial or loss of benefits;
 - (g) The sources of financing retirement benefits, and statutory requirements for funding;
 - (h) A statement after each actuarial valuation as to whether funding requirements are being met; and
 - (i) The procedures to be followed in presenting claims for benefits under the plan, and the remedies available under the plan for the redress of claims which are denied in whole or in part.
- (4) The system may publish the summary plan description in the form of a comprehensive pamphlet or booklet, or in the form of periodic newsletters which shall incorporate all the information required in the summary plan description within a period of two (2) years. Any changes in statutory requirements or administrative practices which alter the provisions of the plan as described in the summary plan description shall be summarized as required in subsection (2) of this section and shall be made available upon request to members in the form of a supplement to a comprehensive booklet, or reported in the periodic newsletter.
- (5) The system shall make available upon request to retirees and beneficiaries the summary plan description.

Section 9. KRS 61.552 is amended to read as follows:

- (1) Any employee participating in one (1) of the state-administered retirement systems who has been refunded his accumulated contributions under the provisions of KRS 16.645(22), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system. The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

- (2) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.
- (3) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.
- (4) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.
- (5)
 - (a) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.
 - (b) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system in which he participates a delayed contribution payment, as determined by the board's actuary. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.
- (6) After August 1, 2000, service credit obtained under the subsections of this section which do not require the employee to have a minimum number of years of service credit to be eligible to make a purchase shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of the state-administered retirement systems. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 16.582 or 61.600.
- (7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.
- (8) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not ~~participate in~~ ~~have the option to be covered at the university by~~ a defined benefit **or defined contribution** retirement program ~~at the university~~, ~~or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2),~~ may obtain credit in the employee's account in the County Employees Retirement System, the Kentucky Employees Retirement System, or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had

his period of university employment been covered by the County Employees, Kentucky Employees Retirement System, or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the employee may pay by increments.

- (9)
 - (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);
 - (b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);
 - (c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;
 - (d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;
 - (e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.
- (10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.
- (11) Employees who served as assistants to officers and employees of the General Assembly who have at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).
- (12)
 - (a) Effective August 1, 1988, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for *interim*, seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined as a delayed contribution payment for the period of time involved, which shall not be picked up by the employer as described in KRS 61.560(4).
 - (b) Any noncertified employee of a school board who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed

contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined as a delayed contribution payment, which shall not be picked up by the employer as described in KRS 78.610(4).

- (13) A retired member, who is contributing to one (1) of the state-administered retirement programs under the provisions of KRS 61.637(1) to (4) and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:
 - (a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or
 - (b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.
- (14) Any employee participating in one (1) of the systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for prior or current service for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, by paying to the respective retirement system a delayed contribution payment. The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.
- (15) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for prior or current service for any period of approved maternity leave, unpaid leave authorized under the Federal Family and Medical Leave Act, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.
- (16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by making installment payments in lieu of a lump-sum payment.
 - (a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. Once multiple service purchases have been combined in an installment purchase, the employee may not separate the purchases or pay a portion of one (1) of the purchases. The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.
 - (b) One (1) year of installment payments shall be made for each one thousand dollars (\$1,000) or any part thereof of the total cost, except that the total period allowed for installments shall not be less than one (1) year and shall not exceed five (5) years.
 - (c) The employee shall pay the installments by payroll deduction. Upon notification by the retirement system, the employer shall report the installment payments either monthly or semimonthly continuously over each twelve (12) month period at the same time as, but separate from, regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up

by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

- (d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.
 - (e) If the employee elects to stop the installment payments, *dies, retires, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary*, ~~the employee~~ shall have sixty (60) days to pay the remaining principal of the purchase by lump sum, *except that payment by the member shall be made prior to the effective retirement date*. If the *member or beneficiary* ~~employee~~ does not pay the remaining cost ~~or if the employee dies, retires, or does not continue employment in a position required to participate in the retirement system~~, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.
 - (f) If the employer does not report installment payments on an employee for sixty (60) days, except in the case of employees on military leave or sick leave without pay, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased. Installment payments of employees on military leave or sick leave without pay shall be suspended during the period of leave and shall resume without recalculation upon the employee's return from leave.
 - (g) If payments have ceased under paragraph (e) or (f) of this subsection and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.
- (17) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by transferring funds through a direct trustee-to-trustee transfer as permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder, or through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31) and any regulations or rulings issued thereunder. Service credit may also be purchased by a rollover of funds pursuant to and permitted under the rules specified in 26 U.S.C. sec. 402(c) and 26 U.S.C. sec. 408(d)(3). The Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.
- (18) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is age sixty-five (65) or older and has forty-eight (48) months of service credit or, if younger, who has sixty (60) months of service credit in systems administered by Kentucky Retirement Systems may purchase credit in the system in which the employee has the service credit for up to ten (10) years service in a regular full-time position that was credited to a state or local government-administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay a delayed contribution payment. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible to the extent permitted under subsection (17) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.
- (19) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has sixty (60) or more months of service in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System, may purchase credit in the system in which the employee has the sixty (60) months of

service credit for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay a delayed contribution payment. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection (17) of this section and to the extent permitted by the other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

- (20) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.
- (21) An employee participating in any retirement system administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems, and who was formerly employed in a regional community mental health and mental retardation services program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may obtain credit for the period of his service in the regional community mental health and mental retardation program, by paying to the state retirement system in which he participates a delayed contribution payment. Payment to one (1) of the retirement systems administered by the Kentucky Retirement Systems may be made by lump sum or in increments.
- (22) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. The cost of the service shall be a delayed contribution payment, which shall not be picked up by the employer as described in KRS 61.560(4).
- (23)
 - (a) Any person who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or KRS 78.615 may obtain credit for the service by paying the employee contributions due within six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions are received by the retirement system.
 - (b) Any employee participating in one (1) of the state-administered retirement systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions are received by the retirement system. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.
- (24) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the former public agency or political subdivision has merged with or been taken over by a participating department or county. The cost of the service shall be determined as a delayed contribution payment for the respective retirement system. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or KRS 78.610(4), by the employer.

- (25) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems prior to July 15, 2002, who has accrued at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems and who has total service in all state-administered retirement systems of at least one hundred eighty (180) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit which is not otherwise purchasable under any of the provisions of KRS 16.510 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852. The purchase price for the retirement service credit shall be calculated and paid for as a delayed contribution payment. The payment shall not be picked up, as described in KRS 16.545(4), KRS 61.560(4), KRS 78.610(4), by the employer, and the employee's payment shall be paid into the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by increments. The service purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least two hundred forty (240) months of service, excluding service purchased under this subsection. If the member does not accrue at least two hundred forty (240) months of service, excluding service purchased under this subsection, upon retirement, death, or written request following termination, the payment, plus interest as provided in KRS 61.575, shall be refunded.
- (26) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in the systems administered by Kentucky Retirement Systems, may obtain credit in the County Employees Retirement System for the period of that employee's service with a community action agency created under KRS 273.405 to 273.453 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system a delayed contribution payment. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or 78.610(4), by the employer.
- (27) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems may obtain current service credit for up to forty-eight (48) months for his or her period of service as a Domestic Relations Commissioner by paying to the retirement system a delayed contribution payment no later than December 31, 2002. Payment may be made by lump sum or under an installment agreement. The payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.
- (28) The board of trustees is authorized to establish a program, subject to a favorable ruling from the Internal Revenue Service, to provide for the purchase of service credit under any of the provisions of KRS 16.510 to 16.552, 61.515 to 61.705, and 78.520 to 78.852, pursuant to the employer pick-up provisions in 26 U.S.C. sec. 414(h)(2).
- (29) *An employee may obtain credit for regular full-time service with an agency prior to August 1, 1998, for which the employee did not receive credit due to KRS 61.637(1), by paying a delayed contribution. The payment shall not be picked up by the employer, except as provided in subsection (28) of this section, and shall be credited to the employee's second retirement account. Service credit obtained under this subsection shall not be used in determining benefits under KRS 61.702. The employee may purchase credit for service prior to August 1, 1998, if:*
- (a) *The employee retired from one (1) of the retirement systems administered by the Kentucky Retirement Systems and was reemployed prior to August 1, 1998, earning less than the maximum permissible earnings under the Federal Social Security Act;*
 - (b) *The employee elected to participate in a second retirement account effective August 1, 1998, in accordance with KRS 61.637(7); and*
 - (c) *The employee has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in a second account in the systems administered by Kentucky Retirement Systems.*

Section 10. KRS 61.645 is amended to read as follows:

- (1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of nine (9) members, who shall be selected as follows:
 - (a) The secretary of the Personnel Cabinet shall serve as trustee for as long as he occupies the position of secretary under KRS 18A.015, except as provided under subsections (5) and (6) of this section;
 - (b) Two (2) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;
 - (c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;
 - (d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; and
 - (e) Three (3) trustees, appointed by the Governor of the Commonwealth. Of the three (3) trustees appointed by the Governor, one (1) shall be knowledgeable about the impact of pension requirements on local governments.
- (2) The board is hereby granted the powers and privileges of a corporation, including but not limited to the following powers:
 - (a) To sue and be sued in its corporate name;
 - (b) To make bylaws not inconsistent with the law;
 - (c) To conduct the business and promote the purposes for which it was formed;
 - (d) To contract for investment counseling, actuarial, auditing, medical, and other professional or technical services as required to carry out the obligations of the board without limitation, notwithstanding the provisions of KRS Chapters 45, 45A, 56, and 57;
 - (e) To purchase fiduciary liability insurance;
 - (f) To acquire, hold, sell, dispose of, pledge, lease, or mortgage, the goods or property necessary to exercise the board's powers and perform the board's duties without limitation, notwithstanding the limitations of KRS Chapters 45, 45A, and 56; and
 - (g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.
- (3) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section. An elected trustee shall not serve more than three (3) consecutive four (4) year terms. An elected trustee who has served three (3) consecutive terms may be elected again after an absence of four (4) years from the board.
- (4)
 - (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board may nominate, not less than six (6) months before a term of office of a trustee is due to expire, three (3) constitutionally eligible individuals;
 - (b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the executive director, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members;
 - (c) Within four (4) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the executive director shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;
 - (d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;
 - (e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office located within Kentucky. Access to this post office box shall be limited to the board's contracted auditing firm. The individual receiving a plurality of votes shall be declared elected;

- (f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall sign and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;
 - (g) The board's contracted auditing firm shall report in writing the outcome to the ~~chair~~~~chairman~~ of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.
- (5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and if the secretary of the Personnel Cabinet resigns his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.
- (6) (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more than one (1) position as trustee on the board, he shall resign a position.
- (b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.
- (7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of eighty dollars (\$80) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.
- (8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the ~~chair~~~~chairman~~ or the executive director. It shall elect a ~~chair~~~~chairman~~ and a vice ~~chair~~~~chairman~~. A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.
- (9) (a) The board of trustees shall appoint or contract for the services of an executive director and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapters 18A and 45A and KRS 64.640. The executive director shall be the chief administrative officer of the board.
- (b) The board of trustees shall authorize the executive director to appoint the employees deemed necessary to transact the business of the system. For an appointee deemed to be in a policy-making position, the board shall determine the compensation and other terms of employment for the policy-making position without limitation of the provisions of KRS Chapter 18A. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and control of determining and maintaining an adequate complement of employees shall be under the exclusive jurisdiction of the board of trustees.
- (c) Effective December 1, 2002, all employees of the Kentucky Retirement Systems shall be transferred to a personnel system adopted by the board. Employees of Kentucky Retirement Systems covered by the personnel system adopted by the board shall be:
- 1. Provided the same health insurance coverage as all other state government employees as provided in KRS 18A.225;
 - 2. Eligible to participate in the deferred compensation system provided for all state government employees as provided in KRS 18A.250 to 18A.265;
 - 3. Provided the same life insurance coverage provided all state employees as provided in KRS 18A.205 to 18A.215;
 - 4. Reimbursed for all reasonable and necessary travel expenses and disbursements incurred or made in the performance of official duties in accordance with KRS Chapter 45;
 - 5. Ensured equal employment opportunity regardless of race, color, gender, religion, national origin, disability, sexual orientation, or age;
 - 6. Given those holidays and rights granted to state employees as provided in KRS 18A.190;

7. Paid a salary not less than the salary paid as of the date of transfer to the personnel system, unless voluntarily demoted or involuntarily demoted for cause;
 8. Credited with all accumulated sick leave, compensatory time, and annual leave accumulated in accordance with KRS Chapter 18A, and for an employee leaving service, the system shall attest to the employee's accumulated sick leave, compensatory time, and annual leave which shall be credited with other *state and county* employers to the extent provided for by statute or policy. ***The Kentucky Retirement Systems may at the discretion of the board accept from other state and county employers all accumulated sick leave, compensatory time, and annual leave for an employee leaving a state or county employer and accepting employment with the Kentucky Retirement Systems. The executive branch shall accept from the Kentucky Retirement Systems all accumulated sick leave, compensatory time, and annual leave for an employee leaving the Kentucky Retirement Systems and accepting employment with the executive branch. The Kentucky Retirement Systems shall accept from the executive branch all accumulated sick leave, compensatory time, and annual leave for an employee leaving the executive branch and accepting employment with the Kentucky Retirement Systems;***
 9. Classified with status upon transfer to the personnel system on December 1, 2002, if the employee was classified with status as a merit employee under KRS Chapter 18A. Any employee of the Kentucky Retirement Systems transferred on December 1, 2002, during the probationary period before earning classified status as a merit system employee under KRS Chapter 18A shall transfer all accrued probationary time and the time shall be credited to the probationary time required to attain classified status in the personnel system;
 10. Ensured a grievance appeal procedure and the employee's right to have a representative present at each step of the grievance procedure; and
 11. Ensured of the right of appeal in a manner consistent with the provisions of KRS 18A.095 to the Kentucky Personnel Board and employees classified with status in the personnel system shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.
- (d) The board shall adopt by administrative regulation a fair, equitable, and comprehensive personnel policy with a minimum of the following provisions for the personnel system:
1. A code of conduct including provisions describing performance of duties, abuse of position, conflicts of interest, and outside employment;
 2. An appointments plan including provisions describing the appointing authority, appointments, equal employment policy, sexual harassment policy, and drug-free workplace policy;
 3. A classification plan including provisions describing class specifications, position actions, and employee actions;
 4. A compensation plan based on qualifications, experience, and responsibilities and including provisions which describe a salary schedule, salary adjustments, salary advancements, and an employee suggestion program;
 5. Separations, disciplinary actions, and appeal policies including provisions describing classified with status, exemptions from classified with status, layoffs, abolishment of position, dismissals and notification of dismissal, dismissals during probationary period, disciplinary actions, right of appeal, grievance and appeal procedures, and an employee grievance and appeal committee;
 6. Service and benefits regulations including provisions describing hours of work, fringe benefits, workers' compensation, payroll deductions, holidays, inclement weather days, compensatory time, retirement, resignations, employee evaluations, and political activities; and
 7. Leave policies including provisions describing special leave, annual leave, court leave and jury duty, military leave, voting leave, educational leave, sick leave, family medical leave, leave without pay, absence without leave, and blood donation leave.
- (e) The board shall require the executive director and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.
- (f) The board shall establish a system of accounting.

- (g) The board shall do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852, necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852 conform with federal statute or regulation and meet the qualification requirements under 26 U.S.C. sec. 401(a), ***applicable federal regulations, and other published guidance***. Provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852 which conflict with federal statute or regulation or qualification under 26 U.S.C. sec. 401(a), ***applicable federal regulations, and other published guidance*** shall not be available ~~to the member~~. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation and to meet the qualification requirements under 26 U.S.C. sec. 401(a), ***including an administrative regulation to comply with 26 U.S.C. sec. 401(a)(9). The board shall have the authority to promulgate an administrative regulation to comply with any consent decrees entered into by the board in Civil Action No. 3:99CV500(C) in order to bring the systems into compliance with the Age Discrimination in Employment Act, 29 U.S.C. Section 621, et seq., as amended.***
- (10) All employees of the board shall serve during its will and pleasure. Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.
- (11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and may receive the agenda, board minutes, and other information distributed to trustees of the board upon request. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.
- (12) The system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the executive director of the Kentucky Retirement Systems and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.
- (13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.
- (14) Any person adversely affected by a decision of the board, except as provided under subsection (16) of this section or KRS 61.665, involving KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.
- (15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:
1. In good faith;
 2. On an informed basis; and
 3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.
- (b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.
- (c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;
 2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
 3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.
- (d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by paragraph (c) of this subsection unwarranted.
- (e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:
1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and
 2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.
- (f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e)1. and (e)2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.
- (g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.
- (16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, the affected member, retired member, or recipient may request a hearing to be held in accordance with KRS Chapter 13B. The board may establish an appeals committee whose members shall be appointed by the ~~chair~~~~chairman~~ and who shall have authority to act upon the recommendations and reports of the hearing officer on behalf of the board. The member, retired member, or recipient aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court, in accordance with KRS Chapter 13B.
- (17) The board shall give the Kentucky Education Support Personnel Association twenty-four (24) hours notice of the board meetings, to the extent possible.

Section 11. KRS 61.650 is amended to read as follows:

- (1) (a) The board shall be the trustee of the several funds created by KRS 16.510, 61.515, 61.701, and 78.520, notwithstanding the provisions of any other statute to the contrary, and shall have exclusive power to invest and reinvest such funds in accordance with federal law.
- (b) The board may establish an investment committee whose members shall be appointed by the board ~~chair~~~~chairperson~~. The investment committee shall have authority to implement policy and act on behalf of the board on all investment-related matters with full power to acquire, sell, safeguard, monitor, and manage the assets and securities of the several funds.
- (c) A trustee or other fiduciary shall discharge duties with respect to the retirement system:
 1. Solely in the interest of the members and beneficiaries;
 2. For the exclusive purpose of providing benefits to members and beneficiaries and paying reasonable expenses of administering the system;
 3. With the care, skill, and caution under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;
 4. Impartially, taking into account any differing interests of members and beneficiaries;
 5. Incurring any costs that are appropriate and reasonable; and
 6. In accordance with a good-faith interpretation of the law governing the retirement system.

- (2) All registered securities acquired under authority of KRS 61.510 to 61.705 shall be registered in the name "Kentucky Retirement Systems~~[of the Commonwealth of Kentucky]~~" or nominee name as provided by KRS 287.225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the *chair of the board of trustees*~~[chairman]~~ or a trustee appointed by the *chair*~~[chairman]~~ and the *executive director of the systems*~~[general manager]~~ of the board of trustees.
- (3) The board, in keeping with its responsibility as trustee and wherever consistent with its fiduciary responsibilities, shall give priority to the investment of funds in obligation calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.
- (4) The contents of real estate appraisals, engineering or feasibility estimates, and evaluations made by or for the system relative to the acquisition or disposition of property, until such time as all of the property has been acquired or sold, shall be excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction.

Section 12. KRS 61.665 is amended to read as follows:

- (1) The board shall employ at least three (3) physicians, licensed in the state and not members of the system, upon terms and conditions it prescribes to serve as medical examiners, whose duty it shall be to pass upon all medical examinations required under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to the person under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, and who shall report in writing to the system the conclusions and recommendations upon all matters referred to them. The board may employ one (1) or more licensed mental health professionals as consultants to assist in making determinations where there is objective medical evidence of mental impairments.
- (2)
 - (a) Each employee requesting disability retirement shall file at the retirement office the names and addresses of all, but no fewer than two (2), physicians who have the necessary information to report the employee's physical and mental condition. The employee shall also file at the retirement office a complete description of the job and duties from which he received his last pay as well as evidence that the employee has made a request for reasonable accommodation as provided for in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630. If an employee fails to file, at the retirement office within six (6) months of the date the employee filed his notification of retirement, any of the information required by this subsection, the employee's application for disability benefits shall be void.
 - (b) The employer shall file at the retirement office a complete description of the job and duties for which the employee was last paid and shall submit a detailed description of reasonable accommodations attempted.
 - (c) The board shall prescribe forms upon which medical evidence shall be recorded. The forms shall be sent to the employee's physicians with the request that the documents be completed and filed at the retirement office.
 - (d) The cost of a medical examination shall be paid by the employee. The physicians shall be paid a reasonable amount by the retirement system for the filing of the medical report with the retirement office, pursuant to an administrative regulation promulgated by the board.
 - (e) The system shall select a medical examiner to evaluate the medical evidence submitted by the employee's physician. The examiner shall recommend that disability retirement be approved, or that disability retirement be denied. If the medical examiner recommends denial of disability benefits, the system shall submit the member's application to one (1) additional medical examiner. If the second medical examiner recommends approval, the application shall be submitted to a third medical examiner. Both of the additional medical examiners shall recommend approval of disability benefits to overturn the original recommendation. If there is objective medical evidence of mental impairments, the medical examiners may request the board's licensed mental health professional to assist in determining the level of the mental impairment. Recommendations by the examiners shall be submitted to the board for approval.
 - (f) If the medical examiners recommend that the employee be approved for disability retirement, the *executive director*~~[general manager]~~ shall make retirement payments in accordance with the retirement plan selected by the employee.

- (g) If the medical examiners recommend that the employee be denied disability retirement, the ***executive director***~~[general manager]~~ shall notify the employee of this recommendation. The employee shall have sixty (60) days to file at the retirement office additional medical information or to appeal his denial for disability benefits by filing at the retirement office a request for a formal hearing. An extension of time may be granted by the system for a medical examiner to evaluate additional medical information. The extensions of time shall not be for more than sixty (60) days for any one (1) extension, and no more than three (3) extensions shall be granted. The cumulative extension of time shall not exceed one hundred twenty (120) days. The extension of time shall end upon request of a formal hearing.
 - (h) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.
 - (i) Notwithstanding the foregoing provisions of this section, the system may pay for one (1) or more medical examinations requested by the examiners for the purpose of providing medical information deemed necessary by the examiners. The system may direct that a specialist be sought.
- (3) Any person aggrieved by a final order or determination of the system may file at the retirement office a request that a hearing be conducted by the system in accordance with KRS Chapter 13B. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. If any extensions of time are granted by the system, they shall be as provided for in subsection (2)(g) of this section.
- (a) Any person whose disability benefits have been reduced, discontinued, or denied pursuant to subsection (2)(g) of this section or KRS 61.615(1) may file at the retirement office a request for an administrative hearing with the system. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. The request shall be filed with the ***executive director***~~[general manager]~~, at the system's central office in Frankfort. The request for a hearing shall include a short and plain statement of the reasons the reduction, discontinuance, or denial of disability benefits is being contested. The request shall not operate as a stay of any reduction, discontinuance, or denial of benefits.
 - (b) Failure of the member to request a formal hearing within the period of time specified shall preclude the member from proceeding any further with his cause of action, except as provided in KRS 61.600(1)(e). This paragraph shall not limit the member's right to appeal to a court.
 - (c) The system may require the member requesting the formal hearing to submit to one (1) or more medical or psychological examinations. Notice of the time and place of the examination shall be mailed to the member or his legal representative. The system shall be responsible for the cost of the examination.
 - (d) A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based.
 - (e) A final order of the board which alters or amends the decision recommended pursuant to subsection (2)(g) of this section shall relate back and take effect on the date of the recommendation.
 - (f) All requests for a hearing pursuant to this section shall be made in writing.
- (4) The board may establish an appeals committee whose members shall be appointed by the ***chair***~~[chairman]~~ and who shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of the board.
- (5) Any person aggrieved by a final order of the board may seek judicial review after all administrative appeals have been exhausted by filing a petition for judicial review in the Franklin Circuit Court in accordance with KRS Chapter 13B.
- (6) The system, pursuant to regulations, may refer an employee determined by it to be disabled to the Kentucky Office of Vocational Rehabilitation for evaluation and, if appropriate, retraining.
- (a) The cost of the evaluation and retraining shall be paid by the system in accordance with the regulations established by the board.
 - (b) The member shall perform all acts that are necessary to enroll in and satisfy the requirements of Vocational Rehabilitation as prescribed by the board. This shall include the exchange of confidential information between Kentucky Retirement Systems and the Kentucky Office of Vocational Rehabilitation as necessary to conduct the rehabilitation process. Failure of the member to cooperate

with the system or Vocational Rehabilitation may result in his disability allowance being discontinued, reduced, or denied until the member complies with the agency requests. If the refusal continues for one (1) year, all his rights to any further disability allowance shall cease.

Section 13. 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, lump-sum payments 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. ***Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);***

- (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 in KRS 61.5525, except the determination of the actuarial cost for classified employees of a school board shall be based on their final compensation, 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 14. KRS 78.790 is amended to read as follows:

- (1) The board shall be the trustee of the several funds created by KRS 78.510 to 78.852, and shall have full power to invest and reinvest such funds subject to the limitations that no investments shall be made except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state except that the board may, at its discretion,

purchase common stocks in corporations that do not have a record of paying dividends to their stockholders. Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.

- (2) All registered securities acquired under the authority of KRS 78.510 to 78.852 shall be registered in the name Kentucky Retirement Systems~~[of the Commonwealth of Kentucky]~~ or nominee name as provided by KRS 287.225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the **chair of the board of trustees**~~[chairman]~~ or a trustee appointed by the **chair**~~[chairman]~~ and **executive director of the systems**~~[general manager of the board of trustees]~~.
- (3) The board, in keeping with its responsibility as the trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

Section 15. Whereas, this Act authorizes the board of trustees to promulgate administrative regulations to comply with any consent decrees entered into by the board in Civil Action No. 3:99CV500(C), 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 31, 2003

CHAPTER 170

(HB 465)

AN ACT relating to the Department of Fish and Wildlife Resources.

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

Section 1. KRS 150.061 is amended to read as follows:

- (1) The commission shall appoint a commissioner of the Department of Fish and Wildlife Resources, who shall be a person with knowledge of and experience in the requirements for the protection, conservation and restoration of the wildlife resources of the state. The commissioner shall serve for an indefinite term, subject to removal by the commission for the same cause and in the same manner in which the Governor may remove a member of the commission.
- (2) The commissioner shall receive such compensation as the commission may determine, and shall be reimbursed for all actual and necessary travel and other expenses incurred by him in the performance of his official duties.
- (3) Before entering upon the duties of his office, the commissioner shall take and subscribe to the constitutional oath of office, and shall, in addition thereto, swear or affirm that he holds no other public office, nor any position upon or under any political committee or party. Upon appointment by the commission, the commissioner shall execute a bond of five thousand dollars (\$5,000) in favor of the Department of Fish and Wildlife Resources, the premium on said bond to be paid out of department funds.
- (4) The commissioner shall have general supervision **and**~~or~~ control of all activities, functions, **appointments**, and employees of the Department of Fish and Wildlife Resources.~~[He shall at all times require a bond from each director, officer or employee in or attached to his department, the premium to be paid out of department funds.]~~ He shall enforce all provisions of the laws of the state relating to wild animals, birds, fish and amphibians, and shall exercise all powers necessarily incident thereto not specifically conferred on the commission. The commissioner shall make an annual report of all receipts and disbursements and file same with the Secretary of State of the Commonwealth of Kentucky.
- (5) *If federal or other grant funds become available to pay their salaries, the commissioner may appoint and employ other persons that he may deem necessary or desirable to accomplish the purposes of this chapter. The commissioner shall determine the compensation, duties, and terms of employment of these employees. Employees whose salaries are funded through federal or other grant funds shall not be counted in any tally of permanent employees made for employee cap or budgetary purposes.*

Approved March 31, 2003

CHAPTER 171**(HB 468)**

AN ACT relating to land bank authorities.

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

Section 1. KRS 65.350 is amended to read as follows:

- (1) "Authority" means the land bank authority established pursuant to KRS 65.210 to 65.300 and KRS 65.350 to 65.375;
- (2) "Agreement" means the interlocal cooperation agreement entered into by the parties pursuant to KRS 65.210 to 65.300 and KRS 65.350 to 65.375;
- (3) "Local government" means every city, regardless of classification, every county, and every **consolidated local government and** urban-county government;
- (4) "Parties" means the parties to the agreement, that shall include any local government, the local school district, **which may include county and independent school districts**, within the county and the Commonwealth of Kentucky;
- (5) "Property" means real property, including any improvements thereon; and
- (6) "Tax delinquent property" means any property on which the taxes levied and assessed by any party remain in whole or in part unpaid on the date due and payable.

Section 2. KRS 65.355 is amended to read as follows:

- (1) Any local government, the **county or independent**~~local~~ school district within the county, and the Commonwealth of Kentucky may enter into an interlocal cooperation agreement pursuant to KRS 65.210 to 65.300 for the purpose of establishing a land bank authority pursuant to KRS 65.350 to 65.375.
- (2) The authority shall be a public body corporate and politic with the power to sue and be sued, issue deeds in its name, and any other powers necessary and convenient to carry out these powers or that may be granted to the authority by the parties.
- (3) The authority shall be established to acquire the tax delinquent properties of the parties in order to foster the public purpose of returning land that is in a non-revenue generating, non-tax producing status to effective utilization in order to provide housing, new industry, and jobs for the citizens of the county. The authority shall have the powers provided in KRS 65.370 and 65.375 and in the interlocal cooperation agreement.

Section 3. KRS 65.360 is amended to read as follows:

- (1) The authority shall be governed by a board composed of one (1) member appointed by each unit of local government that is a party to the agreement, one (1) member appointed by the superintendent of schools of the county school district **or of the independent school district**, and one (1) member appointed by the Governor. Each member shall serve at the pleasure of the respective appointing authority for a term of four (4) years and shall serve without compensation. The members shall be residents of the county and may be employees of the parties and shall serve without additional compensation. Any vacancy shall be filled in the same manner as the original appointment.
- (2) The board of the authority shall meet as required, and three (3) members shall constitute a quorum. Approval by a majority of the membership shall be necessary for any action to be taken by the authority. All meetings shall be open to the public, except as otherwise permitted by KRS 61.810, and a written record shall be maintained of all meetings. A chairman shall be elected from among the members, and he shall execute all deeds, leases, and contracts of the authority when authorized by the board.
- (3) The authority may employ its own staff or may utilize employees of the parties, as determined by the agreement.

Approved March 31, 2003

CHAPTER 172**(HB 481)**

AN ACT relating to regulation of athletic agents.

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:

Sections 1 to 18 of this Act may be cited as the Uniform Athlete Agents Act.

SECTION 2. KRS 164.680 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

As used in Sections 1 to 18 of this Act, unless the context requires otherwise:

- (1) *"Agency contract" means an agreement in which a student-athlete authorizes a person to negotiate or solicit on behalf of the student-athlete a professional-sports-services contract or an endorsement contract;*
- (2) *"Athlete agent" means an individual who enters into an agency contract with a student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter into an agency contract. The term includes an individual who represents to the public that the individual is an athlete agent. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization;*
- (3) *"Athletic director" means an individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male and female students, the athletic program for males or the athletic program for females, as appropriate;*
- (4) *"Contact" means a communication, direct or indirect, between an athlete agent and a student-athlete, to recruit or solicit the student-athlete to enter into an agency contract;*
- (5) *"Division" means the Division of Occupations and Professions in the Finance and Administration Cabinet;*
- (6) *"Endorsement contract" means an agreement under which a student-athlete is employed or receives consideration to use on behalf of the other party any value that the student-athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance;*
- (7) *"Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association for the promotion or regulation of collegiate athletics;*
- (8) *"Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity;*
- (9) *"Professional-sports-services contract" means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete;*
- (10) *"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;*
- (11) *"Registration" means registration as an athlete agent pursuant to Sections 1 to 18 of this Act;*
- (12) *"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States; and*
- (13) *"Student-athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student-athlete for purposes of that sport.*

SECTION 3. KRS 164.681 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

- (1) *By acting as an athlete agent in this state, a nonresident individual appoints the Division of Occupations and Professions as the individual's agent for service of process in any civil action in this state related to the individual's acting as an athlete agent in this state.*
- (2) *The division may issue subpoenas for any material that is relevant to the administration of Sections 1 to 18 of this Act.*
- (3) *The division may promulgate administrative regulations in accordance with KRS Chapter 13A that are necessary to carry out the provisions of Sections 1 to 18 of this Act.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as otherwise provided in subsection (2) of this section, an individual may not act as an athlete agent in this state without holding a certificate of registration under Section 6 or subsection (3) of Section 7 of this Act.*
- (2) *Before being issued a certificate of registration, an individual may act as an athlete agent in this state for all purposes except signing an agency contract, if:*
 - (a) *A student-athlete or another person acting on behalf of the student-athlete initiates communication with the individual; and*
 - (b) *Within seven (7) days after an initial act as an athlete agent, the individual submits an application for registration as an athlete agent in this state.*
- (3) *An agency contract resulting from conduct in violation of this section is void and the athlete agent shall return any consideration received under contract.*

SECTION 5. KRS 164.682 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

- (1) *An applicant for registration shall submit an application for registration to the division in a form prescribed by the division. An application filed under this section is a public record. The application must be in the name of an individual, and except as otherwise provided in subsection (2) of this section, signed or otherwise authenticated by the applicant under penalty of perjury and state or contain:*
 - (a) *The name of the applicant and the address of the applicant's principal place of business;*
 - (b) *The name of the applicant's business or employer, if applicable;*
 - (c) *Any business or occupation engaged in by the applicant for the five (5) years next preceding the date of submission of this application;*
 - (d) *A description of the applicant's:*
 1. *Formal training as an athlete;*
 2. *Practical experience as an athlete agent; and*
 3. *Educational background relating to the applicant's activities as an athlete agent;*
 - (e) *The names and addresses of three (3) individuals not related to the applicant who are willing to serve as references;*
 - (f) *The name, sport, and last known team for each individual for whom the applicant acted as an athlete agent during the five (5) years next preceding the date of submission of the application;*
 - (g) *The names and addresses of all persons who are:*
 1. *With respect to the athlete agent's business if it is not a corporation, the partners, members, officers, managers, associates, or profit-sharers of the business; and*
 2. *With respect to a corporation employing the athlete agent, the officers, directors, and any shareholder of the corporation having an interest of five percent (5%) or greater;*
 - (h) *Whether the applicant or any person named pursuant to paragraph (g) of this subsection has been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony, and identify the crime;*

- (i) *Whether there has been any administrative or judicial determination that the applicant or any person named pursuant to paragraph (g) of this subsection has made a false, misleading, deceptive, or fraudulent representation;*
 - (j) *Any instance in which the conduct of the applicant or any person named pursuant to paragraph (g) of this subsection resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student-athlete or educational institution;*
 - (k) *Any sanction, suspension, or disciplinary action taken against the applicant or any person named pursuant to paragraph (g) of this subsection arising out of occupational or professional conduct; and*
 - (l) *Whether there has been any denial of an application for, suspension or revocation of, or refusal to renew, the registration or licensure of the applicant or any person named pursuant to paragraph (g) of this subsection as an athlete agent in any state.*
- (2) *An individual who has submitted an application for, and holds a certificate of, registration or licensure as an athlete agent in another state, may submit a copy of the application and certificate in lieu of submitting an application in the form prescribed pursuant to subsection (1) of this section. The division shall accept the application and the certificate from the other state as an application for registration in this state if the application to the other state:*
- (a) *Was submitted in the other state within six (6) months next preceding the submission of the application in this state and the applicant certifies that the information contained in the application is current;*
 - (b) *Contains information substantially similar to or more comprehensive than that required in an application submitted in this state; and*
 - (c) *Was signed by the applicant under penalty of perjury.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as otherwise provided in subsection (2) of this section, the division shall issue a certificate of registration to an individual who complies with subsection (1) of Section 5 of this Act or whose application has been accepted under subsection (2) of Section 5 of this Act.*
- (2) *The division may refuse to issue a certificate of registration if the division determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent. In making the determination, the division may consider whether the applicant has:*
 - (a) *Been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony;*
 - (b) *Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;*
 - (c) *Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;*
 - (d) *Engaged in conduct prohibited by Section 13 of this Act;*
 - (e) *Had a registration or licensure as an athlete agent suspended, revoked, or denied, or been refused renewal of registration or licensure as an athlete agent in any state;*
 - (f) *Engaged in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student-athlete or educational institution; or*
 - (g) *Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.*
- (3) *In making a determination under subsection (2) of this section, the division shall consider:*
 - (a) *How recently the conduct occurred;*
 - (b) *The nature of the conduct and the context in which it occurred; and*
 - (c) *Any other relevant conduct of the applicant.*

- (4) *An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the division. An application filed under this section is a public record. The application for renewal must be signed by the applicant under penalty of perjury and must contain current information on all matters required in an original registration.*
- (5) *An individual who has submitted an application for renewal of registration or licensure in another state, in lieu of submitting an application for renewal in the form prescribed pursuant to subsection (4) of this section, may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state. The division shall accept the application for renewal from the other state as an application for renewal in this state if the application to the other state:*
 - (a) *Was submitted in the other state within six (6) months next preceding the filing in this state and the applicant certifies the information contained in the application for renewal is current;*
 - (b) *Contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in this state; and*
 - (c) *Was signed by the applicant under penalty of perjury.*
- (6) *A certificate of registration or a renewal of registration is valid for one (1) year.*

SECTION 7. KRS 164.687 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

- (1) *The division may suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of registration under subsection (2) of Section 6 of this Act.*
- (2) *The division may deny, suspend, revoke, or refuse to renew a certificate of registration or licensure only after proper notice and an opportunity for a hearing in accordance with KRS Chapter 13B.*
- (3) *The division may issue a temporary certificate of registration while an application for registration or renewal of registration is pending.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

An application for registration or renewal of registration must be accompanied by a fee in the following amount:

- (1) *An initial application for registration fee determined by the division not to exceed three hundred dollars (\$300);*
- (2) *An annual renewal fee determined by the division not to exceed three hundred dollars (\$300); or*
- (3) *An application for registration fee based upon certification of registration or licensure issued by another state determined by the division not to exceed two hundred fifty dollars (\$250).*

SECTION 9. KRS 164.684 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

- (1) *An agency contract must be in a record, signed or otherwise authenticated by the parties.*
- (2) *An agency contract must state or contain:*
 - (a) *The amount and method of calculating the consideration to be paid by the student-athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or may receive from any other source for entering into the contract or for providing the services;*
 - (b) *The name of any person not listed in the application for registration or renewal of registration who will be compensated because the student-athlete signed the agency contract;*
 - (c) *A description of any expenses that the student-athlete agrees to reimburse;*
 - (d) *A description of the services to be provided to the student-athlete;*
 - (e) *The duration of the contract; and*
 - (f) *The date of execution.*

- (3) *An agency contract must contain, in close proximity to the signature of the student-athlete, a conspicuous notice in boldface type in capital letters stating:*

WARNING TO STUDENT-ATHLETE

IF YOU SIGN THIS CONTRACT:

- (1) **YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE IN YOUR SPORT;**
 - (2) **IF YOU HAVE AN ATHLETIC DIRECTOR, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT; AND**
 - (3) **YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.**
- (4) *An agency contract that does not conform to this section is voidable by the student-athlete. If a student-athlete voids an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.*
- (5) *The athlete agent shall give a record of the signed or otherwise authenticated agency contract to the student-athlete at the time of execution.*

SECTION 10. KRS 164.685 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

- (1) *Within seventy-two (72) hours after entering into an agency contract or before the next scheduled athletic event in which the student-athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student-athlete is enrolled or the athlete agent has reasonable grounds to believe the student-athlete intends to enroll.*
- (2) *Within seventy-two (72) hours after entering into an agency contract or before the next athletic event in which the student-athlete may participate, whichever occurs first, the student-athlete shall inform the athletic director of the educational institution at which the student-athlete is enrolled that he or she has entered into an agency contract.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) *A student-athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within fourteen (14) days after the contract is signed.*
- (2) *A student-athlete may not waive the right to cancel an agency contract.*
- (3) *If a student-athlete cancels an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) *An athlete agent shall retain the following records for a period of five (5) years:*
 - (a) *The name and address of each individual represented by the athlete agent;*
 - (b) *Any agency contract entered into by the athlete agent; and*
 - (c) *Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete to enter into an agency contract.*
- (2) *Records required to be retained in subsection (1) of this section are open to inspection by the division during normal business hours.*

SECTION 13. KRS 164.683 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

- (1) *An athlete agent, with the intent to induce a student-athlete to enter into an agency contract, may not:*

- (a) *Give any materially false or misleading information or make a materially false promise or representation;*
 - (b) *Furnish anything of value to a student-athlete before the student-athlete enters into the agency contract; or*
 - (c) *Furnish anything of value to any individual other than the student-athlete or another registered athlete agent.*
- (2) *An athlete agent shall not intentionally:*
- (a) *Initiate contact with a student-athlete unless registered under Sections 1 to 18 of this Act;*
 - (b) *Refuse or fail to retain or permit inspection of the records required to be retained by Section 12 of this Act;*
 - (c) *Fail to register when required by Section 4 of this Act;*
 - (d) *Provide materially false or misleading information in an application for registration or renewal of registration;*
 - (e) *Predate or postdate an agency contract; or*
 - (f) *Fail to notify a student-athlete before the student-athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student-athlete ineligible to participate as a student-athlete in that sport.*

Section 14. KRS 164.689 is repealed, reenacted as a new section of KRS Chapter 164, and amended to read as follows:

- (1) Any person who engages in the business of an athlete agent or represents himself or herself as an athlete agent without being registered in accordance with *Sections 1 to 18 of this Act* ~~[KRS 164.680 to 164.687]~~ shall be guilty of a Class A misdemeanor.
- (2) Any registered athlete agent who knowingly and willfully commits a prohibited act contained in *Section 13 of this Act* ~~[KRS 164.683]~~ shall be guilty of a Class D felony.
- (3) Any registered athlete agent who knowingly and willfully violates any provision of *Section 9 of this Act* ~~[KRS 164.684]~~ shall be guilty of a Class D felony.
- (4) A student athlete who knowingly and willfully violates any provision of *Section 10 of this Act* ~~[KRS 164.685 or KRS 164.684(5)]~~ shall be guilty of a Class A misdemeanor.
- (5) Any registered athlete agent or athlete who fails to make restitution to a college or university that prevails in a suit brought under *Section 15 of this Act* ~~[KRS 164.686]~~ shall be guilty of a Class D felony.

SECTION 15. KRS 164.686 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

- (1) *An educational institution has a right of action against an athlete agent or a former student-athlete for damages caused by a violation of Sections 1 to 18 of this Act. In an action under this section, the court may award to the prevailing party costs and reasonable attorney's fees.*
- (2) *Damages of an educational institution under subsection (1) of this section include losses and expenses incurred because, as a result of the conduct of an athlete agent or former student-athlete, the educational institution was injured by a violation of Sections 1 to 18 of this Act or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by such an organization.*
- (3) *A right of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student-athlete.*
- (4) *Any liability of the athlete agent or the former student-athlete under this section is several and not joint.*

- (5) *The division may assess a civil penalty against an athlete agent not to exceed twenty-five thousand dollars (\$25,000) for a violation of Sections 1 to 18 of this Act.*
- (6) *Sections 1 to 18 of this Act does not restrict rights, remedies, or defenses of any person under law or equity.*

SECTION 16. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 17. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 18 of this Act governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of such records or signatures conform to the requirements of Section 102 of the Electronic Signatures in Global and National Commerce Act, Pub. L. 106-229, 114 Stat. 464 (2000), and supersede, modify, and limit the Electronic Signatures in Global and National Commerce Act.

SECTION 18. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

If any provision of Sections 1 to 18 of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of Sections 1 to 18 of this Act which can be given effect without the invalid provision or application, and to this end the provisions of Sections 1 to 18 of this Act are severable.

Approved March 31, 2003

CHAPTER 173

(HB 496)

AN ACT relating to air boards.

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

Section 1. KRS 183.132 is amended to read as follows:

- (1) Any urban-county government, city, or county, or city and county acting jointly, or any combination of two (2) or more cities, counties, or both, may establish a nonpartisan air board composed of six (6) members. Any city other than the first class and county jointly or an urban-county government established pursuant to KRS Chapter 67A may establish a nonpartisan board composed of ten (10) members. Any existing six (6) member board, including a board established in an urban-county government, may be expanded to ten (10) members by action of the government entity or entities that established the six (6) member board.
- (2) Any city of the first class, jointly with the county containing the city or a consolidated local government, may establish or maintain a nonpartisan air board. Membership of the board shall be appointed in accordance with subsection (6) or (10) of this section. ***Any air board established or maintained in a county containing a city of the first class or consolidated local government shall be composed of eleven (11) members.***
- (3) The board shall be a body politic and corporate with the usual corporate attributes, and in its corporate name may sue and be sued, contract and be contracted with, and do all things reasonable or necessary to effectively carry out the duties prescribed by statute. The board shall constitute a legislative body for the purposes of KRS 183.630 to 183.740.
- (4) The members of an air board composed of six (6) members shall be appointed as follows:
 - (a) If the air board is established by a city, the members shall be appointed by the mayor of the city;
 - (b) If the air board is established by a county, the members shall be appointed by the county judge/executive except that in the event that an airport is located outside the boundary of the county establishing the airport board, the county judge/executive shall appoint an additional member to the air board from the jurisdiction where the airport is physically located. The additional member shall serve a four (4) year term in accordance with the provisions of subsection (7) of this section and receive full voting privileges on matters brought before the airport board;

- (c) If the air board is established as a joint city-county air board, the members shall be appointed jointly by the mayor of the city and the county judge/executive;
 - (d) If a combination of cities, counties, or both, establishes a joint air board, the mayors and county judges/executive involved shall jointly choose six (6) members and shall jointly choose successors;
 - (e) If the air board is established by an urban-county government, the mayor of the urban-county government or an officer of the urban-county government designated by the mayor shall serve as one (1) member of the board. The remaining five (5) members shall be appointed by the mayor. One (1) of the members appointed by the mayor shall live within a three (3) mile radius of the airport.
- (5) The members of an air board composed of ten (10) members in a city other than a city of the first class and county jointly other than an urban-county government established pursuant to KRS Chapter 67A shall be appointed as follows:
- (a) Five (5) members shall be appointed by the mayor of the city, without approval of the legislative body;
 - (b) Five (5) members shall be appointed by the county judge/executive without approval of the other members of the fiscal court.
- (6) ~~[(The members of)]~~ An air board ***consisting of eleven (11) members and*** established jointly by a city of the first class and the county containing the first class city shall be composed of ~~[(the mayor of the city of the first class and the county judge/executive of the county, and other)]~~ members ~~[(appointed)]~~ as follows:
- (a) ***The mayor of the city of the first class;***
 - (b) ***The county judge/executive of the county containing the city of the first class;***
 - (c) Three (3) members ~~[(shall be)]~~ appointed by the mayor of the city of the first class;
 - (d) ~~[(b)]~~ Three (3) members ~~[(shall be)]~~ appointed by the county judge/executive of the county, with the approval of the fiscal court; ~~[(and)]~~
 - (e) ~~[(e)]~~ Two (2) members, who shall be residents of the county containing a city of the first class or of counties contiguous thereto, ~~[(shall be)]~~ appointed by the Governor; ~~[(and)]~~ ~~[(of the Commonwealth.)]~~
 - (f) ~~[(d)]~~ ***One (1) member, who shall be a member of the executive board of*** ~~[(If there is)]~~ an incorporated alliance of incorporated neighborhood associations and fifth or sixth class cities ~~[(which represents citizens living within a five (5) mile radius of airport operations, appointed by the Governor)]~~ ~~[(shall appoint one (1) member of the executive board of an alliance as an additional member to the air board).]~~ If more than one (1) incorporated alliance exists, the Governor shall select the appointee from the executive boards of ~~[(any of all)]~~ the incorporated alliances. ***If no alliances exist, the Governor shall appoint a citizen of the county who resides within a five (5) mile radius of airport operations.***
- (7) ***An air board consisting of eleven (11) members and established or maintained by a consolidated local government upon its establishment shall be composed of members as follows;***
- (a) ***The mayor of the consolidated local government;***
 - (b) ***Seven (7) members appointed by the mayor of the consolidated local government;***
 - (c) ***Two (2) members, who shall be residents of the county containing the consolidated local government or residents of counties contiguous to the county containing the consolidated local government, appointed by the Governor; and***
 - (d) ***One (1) member, who shall be a member of the executive board of an incorporated alliance of incorporated neighborhood associations and fifth or sixth class cities which represents citizens living within a five (5) mile radius of airport operations, appointed by the Governor. If more than one (1) incorporated alliance exists, the Governor shall select the appointee from the executive boards of any of the incorporated alliances. If no alliances exist, the Governor shall appoint a citizen of the county who resides within a five (5) mile radius of airport operations.***
- (8) ~~[(7)]~~ The members of an air board composed of ten (10) members established by an urban-county government shall be composed of the mayor of the urban-county government or an officer of the urban-county government designated by the mayor. The remaining nine (9) members shall be appointed by the mayor. Two (2) of the members appointed by the mayor shall live within a three (3) mile radius of the airport.

- (9)(8) Members of the board composed of six (6) members shall serve for a term of four (4) years each and until their successors are appointed and qualified. The initial appointments shall be made so that two (2) members are appointed for two (2) years, two (2) members for three (3) years, and two (2) members for four (4) years. Upon expiration of the staggered terms, successors shall be appointed for a term of four (4) years.
- (10)(9) Members of the board composed of ten (10) members in a city other than a city of the first class and county jointly shall serve for a term of four (4) years each and until their successors are appointed and qualified. The initial appointments made by the mayor and the county judge/executive shall be made so that one (1) member is appointed for two (2) years, two (2) members are appointed for three (3) years, and two (2) members are appointed for four (4) years. If an existing six (6) member board is being increased to a ten (10) member board, initial appointments of the four (4) new members shall be made so that the mayor and the county judge/executive, or the mayor if the board is established by an urban-county government, each appoint one (1) member for two (2) years and one (1) member for four (4) years. Upon expiration of the initial terms, successors shall be appointed for a term of four (4) years. In the case of a board established by an urban-county government, the term of the mayor for the urban-county government, or the officer of the urban-county government designated by the mayor, shall be coextensive with the term of the mayor.
- (11)(10) Members of ~~an air~~~~the~~ board composed of eleven (11) members and established or maintained jointly by a city of the first class and the county containing a city of the first class shall serve for a term of three (3) years each and until their successors are appointed and qualified. The terms of the mayor and the county judge/executive shall be coextensive with their terms of office. The mayor and the county judge/executive shall each make their initial appointments to a board established jointly by a city of the first class and the county containing a city of the first class so that one (1) member is appointed for one (1) year, one (1) member is appointed for two (2) years, and one (1) member is appointed for three (3) years. The Governor shall make the initial appointments so that one (1) member is appointed for two (2) years and one (1) member is appointed for three (3) years. Upon the expiration of the initial terms, successors shall be appointed for a term of four (4) years.
- (12) ***Members of an air board composed of eleven (11) members in a county that has established***~~Upon the establishment of~~ a consolidated local government in a county containing a former city of the first class, ***shall serve until their successors are appointed and qualified. The terms of office on the air board of the mayor of the previously existing city of the first class and the county judge/executive of this county shall expire upon the establishment of a consolidated local government. Upon the establishment of a consolidated local government, if the consolidated local government maintains the previously existing air board, the***~~seven (7) members of the board shall be appointed by the mayor of the consolidated local government pursuant to the provisions of KRS 67C.139 for a term of three (3) years.~~ ***incumbent members, except the mayor of the previously existing city of the first class and the county judge/executive of that county,***~~upon the establishment of the consolidated local government~~ shall continue to serve as members of the board for the time remaining of their current terms of appointment. The Governor shall appoint members pursuant to subsection (7)(c) and (d) of this section. The mayor ***of the consolidated local government*** shall serve on the board for a term which shall be coextensive with his or her term of office. Incumbent members shall be eligible for reappointment upon the expiration of their terms.~~In a consolidated local government that takes effect on January 6, 2003,~~ The terms of all ***other*** board members shall~~continue to~~ be for ***four (4)***~~three (3)~~ years. ***Upon the establishment of a consolidated local government and maintenance of a previously existing air board, any incumbent member whose term had expired but who had continued to serve because the member's successor had not been appointed, shall continue to serve until a successor is appointed. Successors shall be appointed***~~The members of the air board on January 6, 2003, shall continue to serve as members for the time remaining on their terms and shall be eligible for reappointment upon the expiration of their terms. The one (1) appointment, which occurs upon the transition of a county containing a city of the first class to a consolidated local government shall be made~~ by the mayor ***or the Governor as provided by law***~~pursuant to the provisions of KRS 67C.139~~ within sixty (60) days after the establishment of the consolidated local government. As the terms of the ***previously serving members of an***~~appointments made while the~~ air board ***being maintained by a consolidated local government***~~was governed by a city of the first class and a county containing the city of the first class~~ expire, the mayor ***of the consolidated local government*** and the Governor shall respectively make their new appointments.
- (13)(11) Members of the board shall serve without compensation but shall be allowed any reasonable expenses incurred by them in the conduct of the affairs of the board. The board shall, upon the appointment of its members, organize and elect officers. The board, except for a board composed of eleven (11) members~~and established jointly by a city of the first class and the county containing a city of the first class or a consolidated~~

~~local government~~, shall choose a chairman and vice chairman who shall serve for terms of one (1) year. Where the board is composed of eleven (11) members and established jointly by a city of the first class and the county containing a city of the first class, the mayor of the city of the first class and the county judge/executive shall jointly appoint the chairman from among the membership of the board. ***Where the board is composed of eleven (11) members and is in a county containing***~~in~~ a consolidated local government, the mayor shall appoint the chairman from among the membership of the board. The board shall also choose a secretary-treasurer who may or may not be a member of the board. The board may fix a salary for the secretary-treasurer and the secretary-treasurer shall execute an official bond to be set and approved by the board, and the cost of the bond shall be paid by the board.

- ~~(14)(12)~~ The board may employ necessary counsel, agents, and employees to carry out its work and functions and prescribe rules and regulations as it deems necessary.
- ~~(15)(13)~~ The secretary-treasurer shall keep the minutes of all meetings of the board and shall also keep a set of books showing the receipts and expenditures of the board. The secretary-treasurer shall preserve on file duplicate vouchers for all expenditures and shall present to the board, upon request, complete reports of all financial transactions and the financial condition of the board. The books and vouchers shall at all times be subject to examination by the legislative body or bodies by whom the board was created. The secretary-treasurer shall transmit at least once annually a detailed report of all acts and doings of the board to the legislative body or bodies by whom the board was created.
- ~~(16)(14)~~ In the event that a joint air board is created by cities, counties, or both, and thereafter a city or county desires to withdraw from participation, then the remaining participants may jointly choose a successor member or members of the board. A local government wanting to withdraw from participation in the board shall not be entitled to return of any moneys or property advanced to the board.
- ~~(17)(15)~~ A quorum for the transacting of the business of a six (6) member board shall consist of four (4) members, a ten (10) member board shall consist of six (6) members, and an eleven (11) member board shall consist of six (6) members. Meetings of the board may be called by the chairman or by four (4) members. In case of tie voting by the board, the issue shall be deemed to have failed passage.
- ~~(18)(16)~~ A board member may be replaced by the appointing authority upon a showing to the authority of misconduct as a board member or upon conviction of a felony. A board member shall not hold any official office with the appointing authority, except for the mayor of a city of the first class and the county judge/executive on a board made up of eleven (11) members and established jointly by a city of the first class and the county containing a city of the first class, or the mayor of an urban-county government or a consolidated local government, or an officer of the urban-county government designated by the mayor on a board established by an urban-county government.

Approved March 31, 2003

CHAPTER 174

(HCR 41)

A CONCURRENT RESOLUTION confirming the appointment of Eleanore C. Thompson to the Education Professional Standards Board.

WHEREAS, KRS 161.028 requires the Governor to appoint fifteen citizen members of the Education Professional Standards Board, subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, pursuant to KRS 161.028, the Governor has appointed Eleanore C. Thompson as a member of the Education Professional Standards Board representing elementary teachers for a term expiring on September 18, 2006; and

WHEREAS, the Senate and the House of Representatives find that Ms. Thompson is qualified to render service;

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, pursuant to 161.028, do confirm the appointment of Eleanore C. Thompson to the Education Professional Standards Board for a term expiring September 18, 2006.

Section 2. The Clerk of the House shall forward a copy of this Resolution, and written notification of its adoption, to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601 and to Ms. Eleanore C. Thompson, Route 1, Box 12, Mt. Olivet, Kentucky 41064.

Approved March 31, 2003

CHAPTER 175

(HCR 46)

A CONCURRENT RESOLUTION consenting to the reappointment of William R. Whitledge as a member of the Mine Safety Review Commission.

WHEREAS, KRS 351.1041 requires the Governor to appoint the three members of the Mine Safety Review Commission, subject to the consent of the Senate and House of Representatives in accordance with KRS 11.160; and

WHEREAS, on May 10, 2002, the Governor reappointed William R. Whitledge as a member of the Mine Safety Review Commission by Executive Order 2002-523, to serve a term expiring on May 23, 2006; and

WHEREAS, the House of Representatives and the Senate find that William R. Whitledge meets the requirements of KRS 351.1041, having the qualifications of a Judge of the Court of Appeals, except for residence in a district;

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 consent to the reappointment of William R. Whitledge as a member of the Mine Safety Review Commission, for a term expiring on May 23, 2006.

Section 2. The Clerk of the House of Representatives shall notify the Governor and the appointee of the General Assembly's action, by forwarding a copy of this Resolution and written notification of its adoption to Mr. William R. Whitledge, 141 Yorkwood Place, Madisonville, Kentucky 42431 and to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

Approved March 31, 2003

CHAPTER 176

(HCR 88)

A CONCURRENT RESOLUTION confirming the appointment of Brian Van Horn to the Kentucky Long-Term Policy Research Center Board.

WHEREAS, KRS 7B.030 requires the Governor to appoint six at-large members of the Kentucky Long-Term Policy Research Center Board, subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by Executive Order 2003-77, dated January 27, 2003, the Governor appointed Brian Van Horn of Benton, replacing Alayne L. White of Lexington, whose term has expired, and submitted his appointment for legislative confirmation; and

WHEREAS, the House of Representatives and the Senate find that Brian Van Horn meets the age and residency requirements of KRS 7B.030 and has demonstrated an interest in the well-being and development of the Commonwealth, as required by that statute;

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 do confirm the appointment of Brian Van Horn to the Kentucky Long-Term Policy Research Center Board for a term expiring October 6, 2006.

Section 2. The Clerk of the House of Representatives shall send a copy of this Resolution, and notification of its adoption, to Mr. Brian Van Horn, 80 Steeplechase Lane, Benton, Kentucky 42025 and to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

Approved March 31, 2003

CHAPTER 177

(HCR 89)

A CONCURRENT RESOLUTION confirming the reappointment of Ronald J. Carson to the Kentucky Long-Term Policy Research Center Board.

WHEREAS, KRS 7B.030 requires the Governor to appoint six at-large members of the Kentucky Long-Term Policy Research Center Board, subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by Executive Order 2003-77, dated January 27, 2003, the Governor reappointed Ronald J. Carson of Frankfort and submitted his appointment for legislative confirmation; and

WHEREAS, the House of Representatives and the Senate find that Ronald J. Carson meets the age and residency requirements of KRS 7B.030 and has demonstrated an interest in the well-being and development of the Commonwealth, as required by that statute;

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 do confirm the appointment of Ronald J. Carson to the Kentucky Long-Term Policy Research Center Board for a term expiring October 6, 2006.

Section 2. The Clerk of the House of Representatives shall send a copy of this Resolution, and notification of its adoption, to Mr. Ronald J. Carson, 215 Evergreen Road, Frankfort, Kentucky 40601 and to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

Approved March 31, 2003

CHAPTER 178

(HJR 3)

A JOINT RESOLUTION memorializing and honoring various individuals.

The mountains are shrouded in fog -- tears from heaven over the loss
of one of our native sons, Tony Turner of Hazard, Kentucky.

WHEREAS, a brilliant young life was extinguished on June 30, 2002, when Tony Turner of Hazard, Kentucky crossed that final bourne from which no traveler returns; and

WHEREAS, on June 10, 2002, while returning from Williamsburg, Kentucky where he had filed a live report, Tony Turner's vehicle was struck head-on; and

WHEREAS, Tony Turner struggled for three weeks before he died of injuries suffered in the crash; and

WHEREAS, a Harlan County native, Tony Turner grew up in a coal camp and began his broadcasting career at WFSR radio in Harlan; and

WHEREAS, Tony Turner served as general manager of WFSR from 1976 until 1986 when he moved from radio to television and joined the staff of WYMT-TV; and

WHEREAS, a dedicated employee, Tony Turner worked as a general assignment reporter for about a year before he was named news director and anchor of the six o'clock news program - a position he held for sixteen years; and

WHEREAS, Tony Turner was named station manager and vice-president for WYMT-TV in 2001; and

WHEREAS, Tony Turner also anchored a show for many years called "Issues and Answers...The Mountain Edition" that featured guests from all walks of life, including local mayors and former presidents; and

WHEREAS, the forty year old was a devoted husband to his wife Geraldine and the loving father of two; and

WHEREAS, in addition to his family, Tony Turner is mourned by his audience, his employees, and his countless friends;

NOW, THEREFORE,

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

Section 1. The members of this body, both individually and collectively, posthumously proclaim Tony Turner to have been an outstanding citizen and exemplary representative of the Commonwealth.

Section 2. The Transportation Cabinet is directed to name United States Route 421 from the city of Harlan in Harlan County to the city of Hyden in Leslie County, the "Tony Turner Memorial Highway."

Section 3. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs on United States Route 421 from the city of Harlan in Harlan County to the city of Hyden in Leslie County, that read the "Tony Turner Memorial Highway."

Section 4. The Tourism Development Cabinet is directed to name the conference center at Dale Hollow State Resort Park in honor of former State Representative Ray Mullinix.

Section 5. The Tourism Development Cabinet shall, within thirty days of the effective date of this Resolution, erect a sign at the conference center at Dale Hollow State Resort Park naming it the "Ray Mullinix Conference Center."

Approved March 31, 2003

CHAPTER 179

(HJR 64)

A JOINT RESOLUTION directing the Transportation Cabinet to name various roads and bridges.

WHEREAS, General Ambrose E. Burnside was the military commander of a camp established in Pulaski County in the early 1860's during the Civil War; and

WHEREAS, extensive fortifications and defensive positions were built at the camp at the direction of General Burnside; and

WHEREAS, the site of the camp was called "Point Burnside" and "Camp Burnside" and later the City of Burnside was located and built on the site in honor of General Ambrose E. Burnside; and

WHEREAS, the Burnside City Council unanimously supports naming a bridge in honor of General Burnside, as well as 300 citizens who have signed petitions supporting the naming of the bridge;

NOW, THEREFORE,

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

Section 1. The Transportation Cabinet shall name the bridge located 7.5 miles south of the intersection of Kentucky Route 80 and United States Route 27 that crosses the North Fork of the Cumberland River in the City of Burnside, Pulaski County, Kentucky the "General Burnside Memorial Bridge."

Section 2. The Transportation Cabinet shall within thirty days of the effective date of this Resolution erect signs that read "General Burnside Memorial Bridge" at each approach to the bridge located 7.5 miles south of the intersection of Kentucky Route 80 and United States Route 27 that crosses the North Fork of the Cumberland River in the City of Burnside, Pulaski County, Kentucky.

Section 3. The Transportation Cabinet shall name the bridge in Lyon County located on Kentucky Route 453 which crosses Barkley Canal (Bridge Number B00020) the "Between the Rivers Memorial Bridge."

Section 4. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs at each approach to the bridge in Lyon County located on Kentucky Route 453 which crosses Barkley Canal (Bridge Number B00020) that read "Between the Rivers Memorial Bridge."

Section 5. The Transportation Cabinet shall, within thirty (30) days of the effective date of this Resolution, name the segment of United States Route 421 from the Harlan/Leslie County line to Beechfork Elementary School in Leslie County the "Carl Wilson Highway." The cabinet shall name the segment of United States Route 421 in honor of Carl Wilson, regardless of whether the segment is also named in honor of another individual. Naming the segment in honor of Carl Wilson shall be in addition to the honor recognizing another individual person and shall not supersede the other name.

Section 6. The Transportation Cabinet shall, within thirty (30) days of the effective date of this Resolution, erect signs on the segment of United States Route 421 from the Harlan/Leslie County line to Beechfork Elementary School in Leslie County that read "Carl Wilson Highway." If the segment is also named in honor of another individual, the cabinet shall erect separate signs recognizing both Carl Wilson and the other individual.

Approved March 31, 2003

CHAPTER 180

(SB 17)

AN ACT relating to reorganization.

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

Section 1. KRS 164.740 is amended to read as follows:

As used in KRS 164.740 to ~~164.7891~~~~164.785~~, the terms listed below shall have the following meanings:

- (1) "Authority" means the Kentucky Higher Education Assistance Authority.
- (2) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority.
- (3) "Business school" means any business school which is accredited by the **Accrediting Commission for Independent Colleges and Schools**~~[Association of Independent Colleges and Schools, the commission for business schools,]~~ or any successor **recognized by the United States Department of Education**, and which provides a program of study leading to the granting of a postsecondary degree or diploma.
- (4) "College" means **an institution governed by the board of regents of the Kentucky Community and Technical College system or** any postsecondary educational institution of higher learning which is accredited by ~~a~~~~the Southern Association of Colleges and Schools, the commission on colleges, or any successor, or other equivalent]~~ **recognized by the United States Department of Education**, and which provides a program of study leading to the granting of a postsecondary degree,~~[-or]~~ diploma, **or certificate**.
- (5) "Eligible institution" means any educational institution or class of institutions designated pursuant to the federal act or this chapter as eligible to participate in authority-administered programs, provided that no right of participation shall be deemed vested pursuant to this subsection in any institution, including, but not by way of limitation, any college, school of nursing, vocational school, or business school.
- (6) "Eligible lender" means any entity described as eligible pursuant to the federal act to make or originate insured student loans, provided that no right of participation shall be deemed vested hereby in any lender.
- (7) "Eligible student" means any student enrolled or accepted for enrollment at a participating institution, meeting the criteria established by the federal act and this chapter for the various authority administered programs.
- (8) "Endorser" means a person who signs a student loan promissory note as an accommodation party, in the manner of KRS 355.3-419, and is secondarily liable for payment on such note.
- (9) "Federal Act" means the Higher Education Act of 1965, Pub. L. 89-329, as amended.

- (10) "Grant" means a gift of money, tuition discount, waiver of tuition and fees, or other monetary award that requires neither employment nor repayment, except under conditions prescribed by the board, and is based on demonstrated financial need and such other terms and conditions as the board may prescribe.
- (11) "Honorary scholarship" means a certificate of merit or achievement or other appropriate document which may be issued by the board to students in recognition of superior academic ability or achievement or a special talent.
- (12) "Insured student loan" means a loan to an eligible borrower, who is qualified under the federal act, on which the payment of principal and interest is insured as evidenced by a loan guarantee issued by the authority and reinsured by the secretary under the federal act.
- (13) "Loan" means an advance of money, to be used exclusively for payment of educational expenses, evidenced by a promissory note or similar instrument requiring repayment under specified conditions.
- (14) "Loan guarantee" means the certificate, document, or endorsement issued by the authority as evidence of insurance of a loan as to both principal and interest and of reinsurance by the secretary under the federal act.
- (15) "Participating institution" means any eligible institution, to the extent that it offers an eligible program of study, having a contract in force with the authority, if required by the authority, on such terms as the authority may deem necessary or appropriate to the administration of its programs.
- (16) "Participating lender" means any eligible lender, including the authority and the Kentucky Higher Education Loan Corporation, which has in force a contract with the authority providing for loan guarantee to be issued by the authority under the federal act and this chapter.
- (17) "Penal institution" means any penitentiary, detention facility, adult correctional facility, jail, or other similar institution operated by the state, local, or federal government or by private business.
- (18) "Recognition award" means an advance of money to or on behalf of a student in recognition of superior academic ability, achievement or special talent.
- (19) ***"Regional accrediting association" means the Middle States Association of Colleges and Schools, Commission on Higher Education; New England Association of Schools and Colleges, Commission on Institutions of Higher Education; North Central Association of Colleges and Schools, Higher Learning Commission; Northwest Association of Schools and Colleges, Commission on Colleges; Southern Association of Colleges and Schools, Commission on Colleges; or Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities.***
- (20) "Scholarship" means a gift of money to provide an incentive for fulfillment of a particular public purpose which may be based on financial need and superior academic ability or achievement or a special talent and such other terms and conditions as the board may prescribe.
- ~~(21)(20)~~ "School of nursing" means any training program in the field of nursing, including one regarding nurse aides, which is accredited by the Kentucky Board of Nursing Education and Nurse Registration, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.
- ~~(22)(21)~~ "Secretary" means the United States Secretary of Education.
- ~~(23)(22)~~ "Vocational school" means ~~any public vocational school, technical institution, or technology center which is managed and controlled by the board of regents for the Kentucky Community and Technical System and which provides a course of study leading to the granting of a postsecondary certificate or diploma, or~~ a vocational technical school accredited by the ***Accrediting Commission for Career Schools and Colleges of Technology or the National Council for Workforce Education, or any successor recognized by the United States Department of Education*** ~~national association of trade and technical schools, or any successor~~, which provides a program of study leading to the granting of a postsecondary degree, diploma, or certificate.
- ~~(24)(23)~~ "Work study" means an award of money disbursed by the board at specified intervals to students, or as reimbursement to employers of students, who provide needed services for a specified number of hours in a capacity approved by the board.

Section 2. KRS 164.785 is amended to read as follows:

- (1) The State of Kentucky shall grant an amount as provided in KRS 164.780 and this section to any applicant who meets the following qualifications:

- (a) Is a Kentucky resident as defined by the Kentucky Council on Postsecondary Education;
 - (b) Has been accepted by or is enrolled as a full time student in a Kentucky independent college or university which is accredited by ***a regional accrediting association recognized by the United States Department of Education***~~[the Southern Association of Colleges and Schools]~~ and whose institutional programs are not ~~*composed*~~~~[comprised]~~ solely of a sectarian instruction. An otherwise eligible student having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.), certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability may also qualify under this paragraph;
 - (c) Is not enrolled in a program of study leading to a degree in theology, divinity, or religious education; and
 - (d) Has not previously attended college or university for more than seven (7) semesters or the equivalent.
- (2) The amount of the tuition grant to be paid to a student each semester, or appropriate academic term, shall be determined by the Kentucky Higher Education Assistance Authority.
 - (3) The maximum amount shall not exceed fifty percent (50%) of the average state appropriation per full-time equivalent student enrolled in all public institutions of higher education. Such tuition grants are to be calculated annually by the Kentucky Higher Education Assistance Authority.
 - (4) The need of each applicant shall be determined by acceptable need analysis such as the parents' confidential statement of the college scholarship service, and such other analyses as the authority may determine, subject to the approval by the United States Secretary of Education.
 - (5) An adjustment shall be made in the tuition grant of any student awarded a scholarship from any other source provided the combination of grants and awards exceeds the calculated need of the student.

Section 3. KRS 164.753 is amended to read as follows:

- (1) In the instance of loans, the rules and regulations adopted by the board may include, but not be limited to, those which:
 - (a) Are necessary to qualify the authority as an insured lender under the Higher Education Act of 1965, as amended;
 - (b) Require that loans be made only to those eligible students who are unable to secure comparable loans from private lenders; and
 - (c) Are necessary to qualify the authority as a lender under the Public Health Service Act, as amended.
- (2) In the instance of insured student loans and loan guarantees, the rules and regulations adopted by the board shall include, but not be limited to, those which are necessary to qualify the authority to insure loans under the federal act, as amended, and following such qualification to issue loan guarantees to participating lenders on any loans advanced by such lenders to eligible students attending or planning to attend any participating institution~~[, except that the total amount of all insured student loans that may be guaranteed by the authority shall not at any time exceed fifteen (15) times the loan guarantee fund balance. In determining the total amount of insured student loans that may be guaranteed by the authority, there shall be excluded from the computation of required loan guarantee fund balances eighty percent (80%) of the amount of insured student loans which are reinsured with the United States or any agency thereof pursuant to the federal act].~~
- (3) In the instance of scholarships, ***except scholarships provided pursuant to KRS 164.518***, the rules and regulations adopted by the board shall include, but not be limited to, those which:
 - (a) Specify ways in which superior academic achievement or ability or special talents will be identified and measured;
 - (b) Ensure that the amount of scholarship to a student attending or planning to attend a participating institution will not exceed the financial need of the student as determined in accordance with paragraph (f) of this subsection, or the maximum scholarship as established by the board, whichever is less;
 - (c) Restrict scholarships to persons who are classified as resident students under the rules and regulations of the Council on Postsecondary Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma or degree in theology, divinity or religious education;

- (d) Ensure that scholarships are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;
 - (e) Ensure that scholarships are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and
 - (f) Ensure, by such needs analysis as the authority may require, that the person is in need of the assistance in order to enroll in or complete an eligible program of study as defined by the board.
- (4) In the instance of grants, the rules and regulations adopted by the board shall include, but not be limited to, those which:
- (a) Ensure that the amount of a grant to a student will not exceed the financial need of the student as determined in accordance with paragraph (e) of this subsection or the maximum grant as established by the board, whichever is less;
 - (b) Restrict grants to persons who are classified as resident students under the rules and regulations of the Council on Postsecondary Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma, or degree in theology, divinity, or religious education;
 - (c) Ensure that grants are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;
 - (d) Ensure that grants are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and
 - (e) Ensure, by such needs analysis as the authority may require, that grants be made only to students who have insufficient financial resources to enroll in or complete an eligible program of study as defined by the board.
- (5) Funds appropriated to the financial assistance program established by KRS 164.780 and 164.785 shall be administered by the board in accordance with the provisions of KRS 164.780 and 164.785.
- (6) In the instance of work-study payments, rules and regulations adopted by the board shall include, but not be limited to, those which require that:
- (a) The employment opportunity available for the student will not interfere with the student's normal progress toward a degree, diploma, or certificate;
 - (b) Contracts to promote increased employment opportunities for eligible students will not result in the displacement of employed workers or impair existing contracts for services; and
 - (c) The work-study payment will not exceed the financial need of the student or the maximum payment as established by the board, whichever is less.

Section 4. KRS 164.7891 is amended to read as follows:

- (1) It is the intent of the General Assembly to establish a scholarship program to provide eligible Kentucky students the opportunity to attend an accredited osteopathic school of medicine located in the Commonwealth and become certified practitioners rendering medical service in the Commonwealth.
- (2) The Kentucky Higher Education Assistance Authority may award scholarships, to the extent funds are available for that purpose, to persons who declare an intent to become osteopaths and practice in the Commonwealth and who are eligible under subsection (4) of this section.
- (3) The authority may award scholarships to students who meet the following criteria:
 - (a) Kentucky residents who are United States citizens as determined by the institution in accordance with criteria established by the Council on Postsecondary Education for the purposes of admission and tuition assessment;
 - (b) Students who are enrolled or accepted for enrollment in an eligible program of study accredited by the Bureau of Professional Education of the American Osteopathy Association or its successor, on a full-time basis, or eligible students who have a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability;

- (c) Students who agree to render one (1) year of qualified service in the Commonwealth for each year the scholarship was awarded. "Qualified service" means a full-time practice in the Commonwealth of Kentucky as a licensed doctor of osteopathy for a majority of the calendar year in the fields of family practice, general practice, general internal medicine, general pediatrics, general obstetrics, or gynecology, except that an individual having a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., whose disability, certified by another licensed physician, prevents him or her from practicing full-time, shall be deemed to perform qualified service by practicing the maximum time permitted by the attending physician; and
 - (d) Students who sign a promissory note as evidence of the scholarship awarded and the obligation to repay the scholarship amount or render medical service as agreed in lieu of payment.
- (4) The amount of the scholarship awarded to an eligible student by the authority shall be equal to the difference between:
- (a) The average of the prevailing amount charged for in-state tuition at the University of Kentucky School of Medicine and the University of Louisville School of Medicine; and
 - (b) The prevailing amount charged for tuition at the osteopathic school of medicine in which the student is enrolled.
- (5) The authority shall require a promissory note to be executed by the student as evidence of the obligation. The recipient shall render one (1) year of qualified service for each year the scholarship was awarded. Upon completion of each year of qualified service, the authority shall cancel the appropriate number of promissory notes. Promissory notes shall be canceled by qualified service in the order in which the promissory notes were executed. Service credit shall not include residency service. In the event a recipient fails to complete an eligible program of study, or fails to render qualified medical service as a primary care physician as agreed in subsection (3) of this section, the recipient shall be liable for the total repayment of the ***sum of all outstanding promissory notes and accrued interest*** ~~amount of the scholarship awarded~~.
- (6) A scholarship shall not be awarded or a promissory note cancellation shall not be granted to any person who is in default on any obligation to the authority under any program administered by the authority under KRS 164.740 to 164.785 until financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.
- (7) A repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of executing the promissory note.
- (8) Failure to meet repayment obligations imposed by this section shall be cause for the revocation of the scholarship recipient's license to practice medicine, subject to the procedures set forth in KRS Chapter 311.
- (9) Notwithstanding KRS 164.753(3), the authority shall establish by administrative regulation procedures ***or the terms of promissory notes*** for the administration of this program, including the execution of appropriate contracts and promissory notes, cancellation of the obligation, ***the rate of repayment and deferment of repayment*** of outstanding debt, and the priority of awarding scholarships if funds are insufficient to honor all requests.
- (10) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a promissory note under this section shall be twelve percent (12%) per annum, except that if a judgment is rendered to recover payment, the judgment shall bear interest at the rate of five percent (5%) greater than the rate actually charged on the promissory note.
- (11) (a) The "Osteopathic Medicine Scholarship Program" is hereby created as a special trust fund in the State Treasury administered by the Kentucky Higher Education Assistance Authority for the purpose of providing funds for scholarships to eligible students studying osteopathic medicine in schools in the Commonwealth.
- (b) Funding shall be transferred to the special trust fund from the coal severance tax revenues levied under KRS 143.020 in an amount that permits each Kentucky resident eligible under subsection (3) of this section to be awarded a scholarship in the amount established under subsection (4) of this section. No more than four percent (4%) of the coal severance tax revenues levied under KRS 143.020 and collected annually shall be transferred to the trust fund. To the extent this appropriation and other funds are available, the authority shall award scholarships to all renewal applicants and eligible students in

accordance with the formula for determining the amount of the scholarship award established in this section.

- (c) The trust fund may also receive state appropriations, gifts, and grants from public and private sources, and federal funds. Any unallotted or unencumbered balances in the trust fund shall be invested as provided in KRS 42.500(9). Income earned from the investments shall be credited to the trust fund. Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year and continuously appropriated only for the purposes specified in this section. A general statement that all continuing appropriations are repealed, discontinued, or suspended shall not operate to repeal, discontinue, or suspend this fund or to repeal this section.

(d) All moneys repaid to the authority under this section shall be added to the appropriations made for purposes of this section, and the funds and unobligated appropriations shall not lapse.

- (12) On or before August 1 of each year, sixty-five percent (65%) of the amount of funding provided in subsection (11)(b) of this section shall be transferred to the special trust fund and the remaining thirty-five percent (35%) shall be transferred on or before December 1 of each year. The revenue transfers shall be based upon the revenue estimates prevailing at the time each transfer is due.
- (13) The calculation and transfer of funds under subsection (11) of this section shall be made only after the quarterly installment of the annual nineteen million dollars (\$19,000,000) allocation of coal severance tax revenues has been credited to the benefit reserve fund within the Workers' Compensation Funding Commission as required by KRS 342.122.

Section 5. KRS 164A.350 is amended to read as follows:

For all purposes of Kentucky law, the following shall be applicable:

- (1) The trust shall exercise ownership of all contributions made under any participation agreement and all interest derived from the investment of the contributions made by the participant up to the date of utilization for payment of higher education costs for the beneficiary. All contributions made under any participant agreement and interest derived from the investment of the contributions made by the participant shall be deemed to be held in trust for the benefit of the beneficiary;
- (2) Any participant may cancel a participation agreement at any time, and terminate the trust's ownership rights thereby created in whole or in part, by delivering an instrument in writing signed and delivered to the program administrator or his designee. In the event the participation agreement is terminated in part, the trust shall retain ownership of all contributions made under the participation agreement not previously expended for the higher education costs of the beneficiary and not returned to the participant. The participant shall retain a reversionary right to receive upon termination the actual market value of the participant's account at the time of the cancellation, including interest, except that the participant ~~may~~~~shall~~ be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection (8) of this section;
- (3) Any participant may cancel a participation agreement and shall be permitted to transfer funds to the Commonwealth postsecondary education prepaid tuition trust fund established in KRS 164A.701, and in compliance with administrative regulations promulgated by the board for the savings plan trust;~~;~~
- (4) If the beneficiary graduates from an institution of higher education, and a balance remains in the participant's account, then the program administrator shall pay the balance to the participant, except that the participant ~~may~~~~shall~~ be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection (8) of this section;
- (5) The institution of higher education shall obtain ownership of the distributions made from the participant's account for the higher education costs paid to the institution at the time each payment is made to the institution;
- (6) Any amounts received by the trust pursuant to the Kentucky Educational Savings Plan Trust which are not listed in this section shall be owned by the trust;
- (7) A participant may transfer the participant's rights to another eligible participant, including, but not limited to, a gift of the participant's rights to a minor beneficiary pursuant to KRS Chapter 385, except that, notwithstanding KRS 385.202(1), the transfer shall be ~~effected~~~~affected~~ and the property distributed in accordance with administrative regulations promulgated by the board or the terms of the participation agreement;
- (8) Notwithstanding any other law to the contrary, if any earnings on contributions are refunded due to cancellation of the participation agreement by the participant or nondistribution of the funds for payment of the

beneficiary's higher education costs, the board shall charge a penalty to the participant against the earnings on contributions. No penalty shall be charged when a refund is made due to:

- (a) The death, permanent disability, or mental incapacity of the beneficiary; or
 - (b) The beneficiary's receipt of a scholarship, an educational assistance allowance under Chapters 30, 31, 32, 34, or 35 of Title 38, United States Code, or a payment exempt from income taxation by any law of the United States, other than a gift, bequest, devise, or inheritance within the meaning of Section 102(a) of the Internal Revenue Code, 26 U.S.C. sec. 102(a), for educational expenses, or attributable to attendance at an institution of higher education, to the extent that the amount refunded does not exceed the amount of the scholarship, allowance, or payment; and
- (9) Notwithstanding any other provision of law to the contrary, contributions and earnings on contributions held by the trust shall be exempt from levy of execution, attachment, garnishment, distress for rent, or fee bill by a creditor of the participant or the beneficiary. No interest of the participant or beneficiary in the trust shall be pledged or otherwise encumbered as security for a debt.

Section 6. KRS 164A.370 is amended to read as follows:

The property of the trust and its income from operations shall be exempt from all taxation by the Commonwealth of Kentucky or any of its political subdivisions. Investment income earned on contributions paid by any participant and used for higher education costs defined in KRS 164A.305(6)~~(7)~~ or refunded under KRS 164A.350(8)~~(7)~~(a) or ~~164A.350(7)~~(b) shall not be subject to Kentucky income tax by either a participant or any beneficiary of a participation agreement, the purposes for which the investment income was accrued being deemed and declared to be entirely public in nature. Earnings that are not used for higher education costs as defined in KRS 164A.305(7) and are refunded shall be subject to Kentucky income tax, except for earnings refunded pursuant to KRS 164A.350(8)~~(7)~~(a) or ~~164A.350(7)~~(b).

Section 7. KRS 164.748 is amended to read as follows:

The board shall have the following powers, functions, and duties:

- (1) To provide loan guarantees, upon terms and conditions the board may prescribe within the limitations provided by KRS 164.740 to 164.770, and the federal act in respect of loans to eligible borrowers. The board may require additional security, including endorsers it deems necessary and desirable and is not in contravention of the federal act. The purpose of the loans shall be to assist individuals in meeting the expense of their education.
- (2) To enter into agreements and undertakings with the secretary as may be required and necessary pursuant to the federal act in order to constitute the authority as a state agency qualified and empowered to insure student loans within the meaning of the federal act and to qualify insured student loans for interest payments, reimbursement, reinsurance, and other benefits available under the federal act to the authority.
- (3) To issue loan guarantees in respect of loans made to eligible borrowers by participating lenders, including the authority. No eligible borrower shall obtain an insured student loan from more than one (1) participating lender without prior approval by the board. No loan guarantee shall be issued, executed, and delivered by the authority unless any insured student loan resulting shall be the subject of agreements pursuant to the federal act by which the insured student loan is made the subject of interest payments, reimbursements, reinsurance, and other benefits to the extent provided by the federal act.
- (4) To promulgate administrative regulations pursuant to KRS Chapter 13A pertaining to insured student loans, loan guarantees, loans, and work-study payments and the awarding of grants, scholarships, and honorary scholarships, as provided in KRS 164.740 to 164.785.
- (5) To enter into contracts with eligible lenders, approved by the state to lend moneys, upon terms and conditions agreed upon between the authority and the eligible lender, to provide for the administration of student financial assistance programs, including, but not by way of limitation, the authority's program of insured student loans.
- (6) To enter into contracts with eligible institutions, upon terms and conditions agreed upon between the authority and the eligible institution, to provide for the administration of student financial assistance programs, including, but not by way of limitation, the authority's program of insured student loans.
- (7) To receive funds from any source, public or private, by gift, grant, bequest, loan, or otherwise, either absolutely or in trust, and to expend them, on behalf of the authority and for any of its purposes; and to acquire from any source, public or private, by purchase, lease, gift, bequest, or devise, any property, real, personal, or

mixed, absolutely or in trust, and to hold, administer, and dispose of it, on behalf of the authority and for any of its purposes. The authority shall not make its debts payable out of any funds except those of the authority.

- (8) To administer federal funds allotted to the state in respect of insured student loans, loan guarantees, loans, work-study, grants, administrative costs, and related matters.
- (9) To sue and be sued in the name of the authority and to plead and be impleaded, and to purchase, on behalf of members of the board or officers and employees of the authority, liability insurance for individual protection from liability for acts and omissions committed in the course and scope of the individual's employment or service.
- (10) To collect from individual borrowers loans made by the authority and insured student loans on which the authority has been compelled to meet its loan guarantee obligations following the inability of the participating lender involved to collect the insured student loans.
- (11) To gather information on all loans, scholarships, honorary scholarships, grants, and work-study opportunities available to Kentucky residents attending or planning to attend an eligible institution and to disseminate the information through the methods of mass communication necessary to ensure that Kentucky residents are aware of financial resources available to those attending or desiring to attend an eligible institution.
- (12) To request reports from each eligible institution or eligible lender necessary for the effective performance of its duties and to publish the information it deems necessary.
- (13) To approve, disapprove, limit, suspend, or terminate the participation of, or take emergency action to withhold authority funds and insured student loans from eligible institutions or eligible lenders in programs administered by the board, subject to the provisions of the federal act and this chapter.
- (14) To perform other acts necessary or appropriate to carry out effectively the purposes of the authority as provided by KRS 164.740 to ~~164.781~~ ~~[164.785]~~ and KRS 164A.010 to 164A.380.
- (15) If any conflict exists between KRS 164.740 to 164.770 and the federal act, which conflict would result in a loss by the authority of any federal funds, including, but not by way of limitation, federal funds made available to the authority under the federal act, including interest payments and reimbursement for insured student loans in default, to promulgate regulations and policies consistent with the federal act not in derogation of the Constitution and general laws of the Commonwealth.
- (16) Except where specifically prohibited by law, to secure data from any other Commonwealth of Kentucky agency or instrumentality or from any other source *in furtherance of any* ~~for~~ purposes of *the authority related to* ~~verifying information submitted by any student and any student's parents, or others in loco parentis, in applying for or receiving assistance from~~ any program *or function* administered by the authority.
- (17) To enter into contracts with public or private nonprofit agencies, eligible to hold or insure student loans under the federal act, to provide for the exchange of information, not in contravention of any federal or state law, or the provision of services necessary to the administration of the authority's insured student loan programs.
- (18) To enter into contracts with the Kentucky Higher Education Student Loan Corporation as required pursuant to KRS Chapter 164A.
- (19) To conduct, in accordance with KRS Chapter 13B, administrative hearings pertaining to any adverse action by the authority affecting participating institutions and lenders, eligible students, and borrowers of loans made by the authority and insured student loans guaranteed by the authority. Wage garnishment hearings and administrative review procedures pertaining to disputes concerning setoff of federal tax refunds shall be exempt under KRS 13B.020 and shall be conducted in accordance with applicable federal law. In an exempt hearing, the board or a hearing officer designated by the board may issue administrative subpoenas for the attendance of witnesses and the production of documents relevant to the issues in dispute. Compliance with the subpoenas shall be enforceable by a court of competent jurisdiction.
- (20) To provide upon termination of the retirement plan authorized by Executive Order 75-964 to active and retired employees of the authority who participated in that plan, health insurance premiums and disability insurance benefits as provided to employees who participate in a state-administered retirement system pursuant to KRS 18A.225 to 18A.229, 61.600, and 61.702.
- (21) To delegate to the executive director general supervision and direction over the administrative function of the authority and its employees in carrying out the policies, programs, administrative regulations, and directives of the board.

Section 8. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

- (1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the council;
- (2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;
- (3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or an equivalent score, as determined by the council, on the Scholastic Assessment Test;
- (4) "Authority" means the Kentucky Higher Education Assistance Authority;
- (5) "Award period" means two (2) consecutive academic terms;
- (6) "Base scholarship amount" means that amount earned by an eligible high school student pursuant to KRS 164.7879 in each academic year as determined by the grade point average earned and reported by the high school at the end of the academic year;
- (7) "Council" means the Council on Postsecondary Education created under KRS 164.011;
- (8) "Eligible high school student" means any person who:
 - (a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;
 - (b) Was enrolled after July 1, 1998:
 1. In a Kentucky high school ~~for~~ at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the Kentucky educational excellence scholarship curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year; **or**
 2. In a Kentucky high school for the fall academic term of the senior year and who:
 - a. Was enrolled during the entire academic term;
 - b. Completed the high school's graduation requirements during the fall academic term; and
 - c. Was not enrolled in a secondary school during any other academic term of that academic year; **and**
 3. Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under subparagraph 2. of this paragraph; and
 - (c) Is not a convicted felon;
- (9) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:
 - (a) Earned a Kentucky educational excellence scholarship base, supplemental, or base and supplemental final award;
 - (b) Has the required postsecondary G.P.A. required under KRS 164.7881;
 - (c) Has remaining semesters of eligibility under KRS 164.7881;
 - (d) Is enrolled in a participating institution as a part-time or full-time student; and
 - (e) Is not a convicted felon;
- (10) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;
- (11) "Grade point average" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;

- (12) "High school" means any Kentucky public high school, and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;
- (13) "KEES" means Kentucky educational excellence scholarship;
- (14) "KEES curriculum" means five (5) courses of study, *except for students who meet the criteria of subsection (8)(b)2. of this section*, in an academic year as determined *in accordance with an*~~by~~ administrative regulation promulgated by the council;
- (15) "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;
- (16) "Kentucky educational excellence scholarship trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;
- (17) "Maximum award amount" means the sum of the base scholarship amount earned by an eligible high school student in each academic year of high school study plus any supplemental award earned by an eligible high school student or earned pursuant to KRS 164.7879(3)(c). The amount so determined shall be the maximum amount available to the eligible postsecondary student for any award period;
- (18) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:
 - (a)
 - 1. Is publicly operated; or
 - 2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; or
 - 3. Is designated by the Council on Postsecondary Education as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and
 - (b) Continues to commit financial resources to student financial assistance programs~~and provides annual documentation to the authority of compliance~~;
- (19) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and
- (20) "Supplemental award" means commitment of scholarship funds under KRS 164.7879(3).

Section 9. KRS 164.746 is amended to read as follows:

- (1) The authority shall be governed, all of its powers shall be exercised, and its duties and functions shall be performed by a board of directors.
 - (a) *Subject to paragraph (b) of this subsection, voting members of the board shall consist of:*
 - 1. Seven (7)~~voting~~ members who shall be appointed *from the general public residing in the Commonwealth of Kentucky* by the Governor *from nominees submitted by the Governor's Postsecondary Education Nominating Committee under KRS 164.005; and*
 - 2. *Eight (8) members of the board of directors of the Kentucky Higher Education Student Loan Corporation appointed by the Governor pursuant to subsection (3)(a)1. of Section 10 of this Act, who shall serve terms of office on the authority board of directors coextensive with their respective terms of office on the Kentucky Higher Education Student Loan Corporation board of directors.*
 - (b) *Upon resignation or expiration of the term of an appointed member of the board of the authority or the Kentucky Higher Education Student Loan Corporation, that member's position shall be*

abolished to reduce the combined number of appointed members of the boards of the authority and the Kentucky Higher Education Student Loan Corporation to ten (10) members.

- (c) In addition, the president of the Council on Postsecondary Education, the president of the Association of Independent Kentucky Colleges and Universities, the State Treasurer, ***the commissioner of education,*** and the secretary of the ~~Cabinet of~~ Finance and Administration ***Cabinet, or their designees who shall be another official of the same cabinet or agency,*** shall serve as voting ex officio members.
- (d) The term of office of appointed members shall be four (4) years. Each member shall serve for the term for which he is appointed and, ***except as provided in paragraph (b) of this subsection, shall serve*** until his successor is appointed.
- (2) ***Subject to paragraph (b) of subsection (1) of this section,*** appointments to fill vacancies on the board shall be made in the same manner as regular appointments. The person appointed shall hold the position for the unexpired portion of the term only.
- (3) The board shall elect from its voting membership a ***chair, chair-elect, and secretary-treasurer***~~chairman and chairman-elect~~ who shall each serve for a term of one (1) year. At the conclusion of the ***chair's***~~chairman's~~ term of office, the ***chair-elect***~~chairman-elect~~ shall become ***the chair***~~chairman~~ for the succeeding year and the board shall elect from its voting membership a new ***chair-elect***~~chairman-elect~~.
- (4) Board members, except officers or employees of the state, shall receive compensation for their services, in the amount of one hundred dollars (\$100) per day, and may be reimbursed for actual and necessary expenses incurred in the performance of their duties under KRS 164.740 to 164.785.
- (5) The board shall provide for the holding of regular meetings and special meetings.
 - (a) A majority of the voting members shall constitute a quorum for the transaction of any business, special meetings shall be called by the ***chair***~~chairman~~ in accordance with KRS 61.823, and either the ***chair or the chair-elect***~~chairman or the chairman-elect~~ shall be present for the transaction of any business.
 - (b) In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.
- (6) The board shall adopt bylaws and policies governing its internal affairs and the conduct of its business, and shall adopt administrative regulations pursuant to KRS Chapter 13A, not inconsistent with law, in connection with the administration of the authority's programs and the performance of its functions and duties.
- (7) The board may:
 - (a) Appoint such officers and employees as necessary and may fix their compensation, and shall prescribe their duties notwithstanding personnel limits established by KRS 18A.010 or the biennial budget and its related documents; and
 - (b) Adopt the provisions of KRS 45A.345 to 45A.460, pursuant to KRS 45A.343.
- (8) The Office of the Treasurer and the board of the Kentucky Higher Education Assistance Authority shall work together to jointly market, as appropriate, the Commonwealth Prepaid Tuition Plan and the Savings Plan established in KRS 164A.300.

Section 10. KRS 164A.050 is amended to read as follows:

- (1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky Higher Education Student Loan Corporation.
- (2) The Kentucky Higher Education Student Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making, and purchasing of insured student loans.

- (3) (a) ***Subject to paragraph (b) of this subsection***, the corporation shall be governed by a board of directors consisting of: ~~eleven (11) members,~~
1. Eight (8) ***voting members*** ~~of whom shall be~~ chosen from the general public residing in the Commonwealth of Kentucky; ***and***
 2. ***Seven (7) voting members of the board of directors of the Kentucky Higher Education Assistance Authority appointed by the Governor pursuant to subsection (1)(a)1. of Section 9 of this Act, who shall serve terms of office on the corporation board of directors coextensive with their respective terms of office on the Kentucky Higher Education Assistance Authority board of directors.***
- (b) ***Upon resignation or expiration of the term of an appointed member of the board of the corporation and the Kentucky Higher Education Assistance Authority, that member's position shall be abolished to reduce the combined number of appointed members of the boards of the corporation and the Kentucky Higher Education Assistance Authority to ten (10) members.***
- (c) ***In addition, the president*** ~~and three (3) of whom shall be the chairman~~ of the Council on Postsecondary Education, the secretary of the Finance and Administration Cabinet, ***the president of the Association of Independent Kentucky Colleges and Universities, the State Treasurer, and the commissioner of education, or their designees who shall be another official of the same cabinet or agency, shall serve as ex officio voting members*** ~~and the chairman of the Kentucky Higher Education Assistance Authority.~~
- (4) The Governor shall appoint ~~the eight (8)~~ directors ***according to subsection (3)(a)1. of this section*** from nominees submitted by the Governor's Higher Education Nominating Committee under KRS 164.005 to take office and to exercise all powers thereof immediately. The terms shall be staggered and shall be for a period of four (4) years each. Each director shall serve for the appointed term and, ***except as provided in subsection (3)(b) of this section, shall serve*** until a successor has been appointed and has duly qualified.
- (5) ***Except as provided in subsection (3)(b) of this section***, in the event of a vacancy, the Governor may appoint a replacement director from nominees submitted by the Governor's Higher Education Nominating Committee under KRS 164.005 who shall hold office during the remainder of the term so vacated.
- (6) The Governor may remove any director from the general public in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare such office vacant and may appoint a person to fill such vacancy as provided in other cases of vacancy.
- (7) The board shall elect from its voting membership a ***chair, chair-elect, and secretary-treasurer*** ~~chairman, secretary, and treasurer~~. The executive director of the Kentucky Higher Education Assistance Authority shall serve as executive director of the corporation.
- (8) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation. The ***secretary-treasurer*** ~~secretary~~ of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The ***secretary-treasurer*** ~~secretary~~ may copy all minutes and other records and documents of the corporation and give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.
- (9) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies in respect of the board of directors.
- (10) Official actions may be taken by the corporation at meetings duly called by the ***chair*** ~~chairman~~ upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors. In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.
- (11) Directors, except officers or employees of the state, shall receive one hundred dollars (\$100) compensation per day for their services and shall be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under this chapter.

- (12) The Kentucky Higher Education Assistance Authority, the "guarantee agency", shall provide technical, clerical, and administrative assistance to the corporation, together with necessary office space and personnel, and shall assist the corporation in all ways by the performance of any and all actions which may be useful or beneficial to the corporation in the performance of its public functions as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky charged with the responsibility of financing, making, and purchasing of insured student loans. The corporation shall enter into such contracts with the guarantee agency as shall be proper and appropriate in respect of such services which may include, but not by way of limitation, servicing and collection of insured student loans.

Section 11. The General Assembly confirms Executive Order 2002-849, dated July 18, 2002, and Executive order 2002-848, dated July 18, 2002, which relate to expansion of the Kentucky Higher Education Assistance Authority's board of directors and the Kentucky Higher Education Student Loan Corporation's board of directors, respectively, to the extent the orders are not otherwise confirmed or superseded by this Act. On making appointments to the boards of directors of the Kentucky Higher Education Assistance Authority and the Kentucky Higher Education Student Loan Corporation, the Governor shall, to the extent reasonably possible, ensure that the appointee shall have experience in the fields of education, business, or financial matters that would be relevant to the functions of the organizations; and that appointments reflect the racial, gender, political, and geographical diversity and composition of the Commonwealth.

Section 12. The following KRS section is repealed:

164.7893 Requirements for educational institutions for students to receive student financial assistance.

Approved March 31, 2003

CHAPTER 181

(SB 24)

AN ACT relating to animal cruelty.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, unless the context otherwise requires, "torture" means the intentional infliction of or subjection to extreme physical pain or injury, motivated by an intent to increase or prolong the pain of the animal.*
- (2) *A person is guilty of torture of a dog or cat when he or she without legal justification intentionally tortures a domestic dog or cat.*
- (3) *Torture of a dog or cat is a Class A misdemeanor for the first offense, and a Class D felony for the second and subsequent offenses.*
- (4) *Nothing in this section shall apply to the killing or injuring of a dog or cat:*
 - (a) *In accordance with a license to hunt, fish, or trap;*
 - (b) *For humane purposes;*
 - (c) *For veterinary, agricultural, spaying or neutering, or cosmetic purposes;*
 - (d) *For purposes relating to sporting activities including but not limited to training for organized dog or cat shows, or other animal shows in which a dog or a cat, or both, participate;*
 - (e) *For activities of bona fide animal research activities, using dogs or cats, of institutions of higher education; or a business entity registered with the U.S. Department of Agriculture under the Animal Welfare Act or subject to other federal laws governing animal research;*
 - (f) *In defense of self or another person against an aggressive or diseased dog or cat;*
 - (g) *In defense of a domestic animal against an aggressive or diseased dog or cat;*
 - (h) *For animal or pest control; or*

(i) *For any other purpose authorized by law.*

(5) *Activities of animals engaged in hunting, field trials, dog training other than training a dog to fight for pleasure or profit, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife Resources shall not constitute a violation of this section.*

(6) *The acts specified in this section shall not constitute cruelty to animals under KRS 525.125 or 525.130.*

Section 2. KRS 525.130 is amended to read as follows:

(1) A person is guilty of cruelty to animals in the second degree when except as authorized by law he intentionally or wantonly:

(a) Subjects any animal to or causes cruel or injurious mistreatment through abandonment, participates other than as provided in KRS 525.125 in causing it to fight for pleasure or profit~~[-]~~ (including, but not limited to being a spectator or vendor at an event where a four (4) legged animal is caused to fight for pleasure or profit) mutilation, beating, torturing *any animal other than a dog or cat*, tormenting, failing to provide adequate food, drink, space, or health care, or by any other means;~~[-or]~~

(b) Subjects any animal in his custody to cruel neglect; or

(c) Kills any animal *other than a domestic animal killed by poisoning. This paragraph shall not apply to intentional poisoning of a dog or cat. Intentional poisoning of a dog or cat shall constitute a violation of this section.*

(2) Nothing in this section shall apply to the killing of animals:

(a) Pursuant to a license to hunt, fish, or trap;

(b) Incident to the processing as food or for other commercial purposes;

(c) For humane purposes;

(d) *For veterinary, agricultural, spaying or neutering, or cosmetic purposes;*

(e) *For purposes relating to sporting activities, including but not limited to horse racing at organized races and training for organized races, organized horse shows, or other animal shows;*

(f) *For bona fide animal research activities of institutions of higher education; or a business entity registered with the U.S. Department of Agriculture under the Animal Welfare Act or subject to other federal laws governing animal research;*

(g) *In defense of self or another person against an aggressive or diseased animal;*

(h) *In defense of a domestic animal against an aggressive or diseased animal;*

(i) *For animal or pest control; or*

(j) *For any other purpose authorized by law.*

(3) Activities of animals engaged in hunting, field trials, dog training~~[-]~~ *other than training a dog to fight for pleasure or profit*, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife shall not constitute a violation of this section.

(4) Cruelty to animals in the second degree is a Class A misdemeanor.

Section 3. KRS 258.245 is amended to read as follows:

~~[(1)]~~ All licensed dogs are hereby declared to be personal property and subjects of larceny. Except as provided in KRS 258.235, it shall be unlawful for any person, except a peace officer, dog warden, or animal control officer to destroy~~[-, injure, or poison]~~, or attempt to destroy~~[-, injure, or poison]~~, any dog which bears a license tag for the current year.

~~[(2)]~~ It shall be unlawful for any person to place any dog button or any poison of any description in any place, on his own premises or elsewhere where it may be easily found and eaten by dogs.

Approved March 31, 2003

CHAPTER 182**(SB 48)**

AN ACT relating to the budget process, making an appropriation therefor, and declaring an emergency.

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

Section 1. The General Assembly hereby appropriates for fiscal year 2002-2003 funds required for those expenditures that have been approved by the Secretary of the Finance and Administration Cabinet and which have been paid or for which a check has been written by the Office of the State Treasurer.

Section 2. The General Assembly hereby appropriates for fiscal year 2002-2003 funds for those expenditures for which a Memorandum of Agreement has been approved by the Secretary of the Finance and Administration Cabinet and the Government Contract Review Committee of the Legislative Research Commission, except as modified by House Bill 269 in the 2003 Regular Session or for which the funding source has been changed.

Section 3. The provisions of Sections 1 and 2 of this Act shall apply to periods preceding the effective date of House Bill 269 and House Bill 294 of the 2003 Regular Session.

Section 4. Whereas the Commonwealth's fiscal year 2002-2003 ends June 30, 2003, and it is essential for the purpose of clarity and transition that the provisions of this Act become effective immediately, 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 31, 2003

CHAPTER 183**(SB 107)**

AN ACT relating to requests for federal approval of changes to the Kentucky Medicaid program.

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

SECTION 1. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

- (1) *Concurrent with submitting an application for a waiver or waiver amendment or a request for a plan amendment to any federal agency that approves waivers, waiver amendments, and plan amendments, the Cabinet for Health Services shall provide to the Interim Joint Committee on Health and Welfare and to the Interim Joint Committee on Appropriations and Revenue a copy, summary, and statement of benefits of the application for a waiver or waiver amendment or request for a plan amendment.*
- (2) *The cabinet at least quarterly shall provide an update to the Interim Joint Committee on Health and Welfare and to the Interim Joint Committee on Appropriations and Revenue on the status of the application for a waiver or waiver amendment or request for a plan amendment.*

Approved March 31, 2003

CHAPTER 184**(SB 161)**

AN ACT relating to absentee ballots.

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

Section 1. KRS 117.087 is amended to read as follows:

- (1) The challenge of an absentee ballot returned by mail shall be in writing and in the hands of the county clerk before **10:00 a.m.**~~[3:00 p.m.]~~ on election day.
- (2) The county board of elections shall count the absentee ballots returned by mail and the votes cast on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by

the State Board of Elections. The board may appoint a central ballot counting board of not less than three (3) members, who shall be qualified voters and no more than two-thirds (2/3) of whom shall be members of the same political party, to count the ballots at the direction of the county board of elections.

- (3) Beginning at **10:00 a.m.**~~[3:00 p.m.]~~ on election day, the board shall meet at the clerk's office to count the absentee ballots returned by mail and the ballots cast on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. Candidates or their representatives shall be permitted to be present. The county board of elections shall authorize representatives of the news media to observe the counting of the ballots. The board shall open the boxes containing absentee ballots returned by mail and remove the envelopes one (1) at a time. As each envelope is removed, it shall be examined to ascertain whether the outer envelope and the detachable flap are in proper order and have been signed by the voter. A person having power of attorney for the voter and who signs the detachable flap and outer envelope for the voter shall complete the voter assistance form required by KRS 117.255. The signatures of two (2) witnesses are required if the voter signs the form with the use of a mark instead of the voter's signature. All unsigned absentee ballots shall be rejected automatically. The chairman of the county board of elections shall compare the signatures on the outer envelope and the detachable flap with the signature of the voter that appears on the registration card. If the outer envelope and the detachable flap are found to be in order, the chairman shall read aloud the name of the voter. If the vote of the voter is not rejected on a challenge then made as provided in subsection (4) of this section, the chairman shall remove the detachable flap and place the inner envelope unopened in a ballot box which has been provided for the purpose.
- (4) When the name of a voter who cast an absentee ballot by mail is read aloud by the chairman, the vote of the voter may be challenged by any board member or by the written challenge provided in subsection (1) of this section and the challenge may be determined and the vote accepted or rejected by the board as if the voter was present and voting in person; but if the outer envelope and the detachable flap are regular, and substantially comply with the provisions of this chapter, they shall be considered as showing that the voter is prima facie entitled to vote. If the vote of a voter is rejected pursuant to the challenge, the inner envelope shall not be opened, but returned to the outer envelope upon which the chairman shall write on the envelope the word "rejected."
- (5) After the challenges have been made and all the blank inner envelopes have been placed in a ballot box, the box shall be thoroughly shaken to redistribute the absentee ballots in the box. The board shall open the ballot box, remove the absentee ballots from the inner envelopes, and count the ballots.
- (6) The board shall unlock any voting equipment used to cast ballots in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, as provided for in KRS 117.086, and a total of all ballots shall be made and recorded on the form provided by the State Board of Elections.
- (7) The county board of elections,~~and~~ the county clerk, **and all individuals permitted to be present for the counting of absentee ballots pursuant to subsection (2) of this section** shall not make public the absentee ballot results determined as provided in this section until after 6 p.m. prevailing time.

Approved March 31, 2003

CHAPTER 185

(SB 221)

AN ACT relating to governmental actions, and declaring an emergency.

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 *members appointed from each chamber shall elect one (1) member from their chamber to serve as co-chair*~~{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}~~. *Co-chairs*~~{Officers}~~ shall be *elected*~~{selected}~~ at the first meeting of the committee following the end of the regular session in even-numbered years. *The co-chairs shall have joint responsibilities for committee meeting agendas and presiding at committee meetings. On an alternating basis, each co-chair shall have the first option to set the monthly meeting date. A monthly meeting may be canceled by agreement of both co-chairs.* A majority of the *entire membership of the Legislative Program Review and Investigations Committee* shall constitute a quorum, and all actions *of the committee shall be by vote of a majority of its entire membership*~~{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 *co-chairs and two (2) minority members from the interim joint committee of relevant jurisdiction to serve as nonvoting ex officio members of the committee in activities related to the relevant study. One (1) of the minority members shall be a member of the House of Representatives designated by the House Minority Floor Leader and the other minority member shall be a member of the Senate designated by the Senate Minority Floor Leader*~~{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).

Section 2. KRS 6.940 is amended to read as follows:

- (1) There is hereby established a Medicaid Managed Care Oversight Advisory Committee, *consisting of ten (10) members appointed as follows: four (4) members of the Senate appointed by the President of the Senate; one (1) member of the minority party in the Senate appointed by the Minority Floor Leader in the Senate; four (4) members of the House of Representatives appointed by the Speaker of the House of Representatives; and one (1) member of the minority party in the House of Representatives appointed by the Minority Floor Leader in the House of Representatives. Members appointed from each chamber shall elect one (1) member from their chamber to serve as co-chair. The co-chairs shall have joint responsibilities for committee meeting agendas and presiding at committee meetings*~~{five (5) Senate members of which shall be appointed by the Senate President and five (5) House of Representatives members of which shall be appointed by the Speaker of the House}~~. The committee shall meet at least four (4) times annually and shall provide oversight on the implementation of Medicaid managed care within the Commonwealth including access to services, utilization of services, quality of services, and cost containment.
- (2) *A majority of the entire membership of the Medicaid Managed Care Oversight Committee shall constitute a quorum, and all actions of the committee shall be by vote of a majority of its entire membership.*

Section 3. KRS 13A.020 is amended to read as follows:

- (1) There is hereby created a permanent subcommittee of the Legislative Research Commission to be known as the Administrative Regulation Review Subcommittee. The subcommittee shall be composed of **eight (8)**~~seven (7)~~ members ***appointed as follows: three (3) members of the Senate appointed by the President; one (1) member of the minority party in the Senate appointed by the Minority Floor Leader in the Senate; three (3) members of the House of Representatives appointed by the Speaker of the House of Representatives; and one (1) member of the minority party in the House of Representatives appointed by the Minority Floor Leader in the House of Representatives.***~~[, no more than five (5) of whom shall be members of the same political party. The Legislative Research Commission shall appoint from the membership of the General Assembly.]~~ The members of the subcommittee ***shall serve*** for terms of two (2) years, and the members~~[so]~~ appointed ***from each chamber*** shall elect one (1) ***member from their chamber***~~[of their number]~~ to serve as ***co-chair***~~[chairman]~~. Any vacancy which may occur in the membership of the subcommittee shall be filled by the ***same appointing authority who made the original appointment***~~[Legislative Research Commission at its next regularly scheduled meeting after the occurrence of the vacancy]~~.
- (2) ***On an alternating basis, each co-chair shall have the first option to set the monthly meeting date. A monthly meeting may be canceled by agreement of both co-chairs. The co-chairs shall have joint responsibilities for subcommittee meeting agendas and presiding at subcommittee meetings***~~[The subcommittee shall meet monthly at such time and place as the chairman may determine]~~. The members of the subcommittee shall be compensated for attending meetings, as provided in KRS 7.090(3)~~[(2)]~~.
- (3) Any professional, clerical or other employees required by the subcommittee shall be provided in accordance with the provisions of KRS 7.090(4) and (5).
- (4) ***A majority of the entire membership of the Administrative Regulation Review Subcommittee shall constitute a quorum, and all actions of the subcommittee shall be by vote of a majority of its entire membership.***

Section 4. KRS 45.790 is amended to read as follows:

- (1) There is created a permanent subcommittee of the Legislative Research Commission to be known as the Capital Projects and Bond Oversight Committee. The subcommittee shall be composed of **eight (8)**~~seven (7)~~ members ***appointed as follows: three (3) members of the Senate appointed by the President of the Senate; one (1) member of the minority party in the Senate appointed by the Minority Floor Leader in the Senate; three (3) members of the House of Representatives appointed by the Speaker of the House of Representatives; and one (1) member of the minority party in the House of Representatives appointed by the Minority Floor Leader in the House of Representatives.***~~[and shall include members of the House of Representatives and members of the Senate. The subcommittee shall include members of the minority party as nearly proportional to their membership in the General Assembly as mathematically possible. The Legislative Research Commission shall appoint, from the membership of the General Assembly,]~~ The members of the subcommittee ***shall serve*** for terms of two (2) years, ***and***~~[,]~~ the members~~[so]~~ appointed ***from each chamber*** shall elect one (1) ***member from their chamber***~~[of their number]~~ to serve as ***co-chair***~~[chairman]~~. Any vacancy which may occur in the membership of the subcommittee shall be filled by the ***appointing authority who made the original appointment***~~[Legislative Research Commission at its next regularly scheduled meeting after the vacancy occurs]~~.
- (2) ***On an alternating basis, each co-chair shall have the first option to set the monthly meeting date. A monthly meeting may be canceled by agreement of both co-chairs. The co-chairs shall have joint responsibilities for committee meeting agendas and presiding at committee meetings***~~[The subcommittee shall meet monthly, and may meet more frequently when necessary, at such time and place as the chairman may determine]~~. The members of the subcommittee shall be compensated for attending meetings as provided in KRS 7.090(3).
- (3) Any professional, clerical, or other employees required by the subcommittee shall be provided in accordance with KRS 7.090(4) and (5).
- (4) ***A majority of the entire membership of the Capital Projects and Bond Oversight Committee shall constitute a quorum, and all actions of the subcommittee shall be by vote of a majority of its entire membership.***

Section 5. KRS 45A.705 is amended to read as follows:

- (1) There is hereby created a permanent committee of the Legislative Research Commission to be known as the Government Contract Review Committee. The committee shall be composed of **eight (8)**~~seven (7)~~ members ***appointed as follows: three (3) members of the Senate appointed by the President of the Senate; one (1)***

member of the minority party in the Senate appointed by the Minority Floor Leader in the Senate; three (3) members of the House of Representatives appointed by the Speaker of the House of Representatives; and one (1) member of the minority party in the House of Representatives appointed by the Minority Floor Leader in the House of Representatives. Members shall serve~~[that shall include members of the minority party as nearly proportioned to their membership in the General Assembly as mathematically possible. The Legislative Research Commission shall appoint the members of the committee from the membership of the General Assembly]~~ for terms of two (2) years, and the members~~[so]~~ appointed *from each chamber* shall elect one (1) *member from their chamber*~~[of their number]~~ to serve as *co-chair*~~[chairperson]~~. Any vacancy that may occur in the membership of the committee shall be filled by the *appointing authority who made the original appointment*~~[Legislative Research Commission at its next regularly scheduled meeting after the occurrence of the vacancy]~~.

- (2) *On an alternating basis, each co-chair shall have the first option to set the monthly meeting date. A monthly meeting may be canceled by agreement of both co-chairs*~~[The committee shall meet monthly at the time and place as the chairperson may determine]~~. *The co-chairs shall have joint responsibilities for committee meeting agendas and presiding at committee meetings. A majority of the entire membership of the Government Contract Review Committee shall constitute a quorum, and all actions of the committee shall be by vote of a majority of its entire membership*~~[a quorum shall require at least four (4) members present and the vote shall be by majority]~~. The members of the committee shall be compensated for attending meetings, as provided in KRS 7.090(3).
- (3) Any professional, clerical, or other employees required by the committee shall be provided in accordance with the provisions of KRS 7.090(4) and (5).
- (4) All proposed personal service contracts and memoranda of agreement received by the Legislative Research Commission shall be submitted to the committee to:
 - (a) Examine the stated need for the service;
 - (b) Examine whether the service could or should be performed by state personnel;
 - (c) Examine the amount and duration of the contract or agreement; and
 - (d) Examine the appropriateness of any exchange of resources or responsibilities.
- (5) If the committee determines that the contract service or agreement, other than an emergency contract approved by the secretary of the Finance and Administration Cabinet or his designee, is not needed or inappropriate, the service could or should be performed by state personnel, the amount or duration is excessive, or the exchange of resources or responsibilities are inappropriate, the committee shall attach a written notation of the reasons for its disapproval or objection to the personal service contract or memorandum of agreement and shall return the personal service contract or memorandum of agreement to the secretary of the Finance and Administration Cabinet or his designee. The committee shall act on a personal service contract or memorandum of agreement submitted to the Legislative Research Commission within forty-five (45) days of the date received.
- (6) Upon receipt of the committee's disapproval or objection to a personal service contract or memorandum of agreement, the secretary of the Finance and Administration Cabinet or his designee shall determine whether the personal service contract or memorandum of agreement shall:
 - (a) Be revised to comply with the objections of the committee;
 - (b) Be canceled and, if applicable, payment allowed for services rendered under the contract or amendment; or
 - (c) Remain effective as originally approved.
- (7) The secretary of the Finance and Administration Cabinet or his designee shall notify the committee of the action taken on personal service contracts and memoranda of agreement disapproved or objected to within ten (10) days from the date the personal service contracts or memoranda of agreement were reviewed by the committee.
- (8) Contracting bodies shall make annual reports to the committee not later than December 1 of each year. The committee shall establish reporting procedures for contracting bodies related to personal service contracts and memoranda of agreement submitted by the secretary of the Finance and Administration Cabinet or his designee.

Section 6. KRS 158.647 is amended to read as follows:

- (1) A permanent subcommittee of the Legislative Research Commission to be known as the Education Assessment and Accountability Review Subcommittee is hereby created. The subcommittee shall be composed of eight (8) members *appointed as follows: three (3) members of the Senate appointed by the President of the Senate; one (1) member of the minority party in the Senate appointed by the Minority Floor Leader in the Senate; three (3) members of the House of Representatives appointed by the Speaker of the House of Representatives; and one (1) member of the minority party in the House of Representatives appointed by the Minority Floor Leader in the House of Representatives.* ~~including four (4) members from each chamber. The Legislative Research Commission shall appoint, from the membership of the General Assembly, the~~ Members of the subcommittee *shall serve* for terms of two (2) years, and the members appointed from each chamber shall elect one (1) member from their chamber to serve as co-chair. The co-chairs shall have joint responsibilities for subcommittee meeting agendas and presiding at subcommittee meetings. ~~At least one (1) member appointed from each chamber shall be a member of the minority party in that chamber.~~ A majority of the *entire membership of the Education Assessment and Accountability Review Subcommittee* shall constitute a quorum, and all actions *of the subcommittee shall be by vote of a majority of its entire membership* ~~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 subcommittee membership. All other actions of the subcommittee may be undertaken by a simple majority.~~ Any vacancy that may occur in the membership of the subcommittee shall be filled by the *same appointing authority who made the original appointment* ~~Legislative Research Commission at its next regularly scheduled meeting after the occurrence of the vacancy.~~
- (2) The subcommittee shall review administrative regulations and advise the Kentucky Board of Education concerning the implementation of the state system of assessment and accountability, established in KRS 158.6453, 158.6455, and 158.782.
- (3) The subcommittee shall advise and monitor the Office of Education Accountability in the performance of its duties according to the provisions of KRS 7.410.
- (4) *On an alternating basis, each co-chair shall have the first option to set the monthly meeting date. A monthly meeting may be canceled by agreement of both co-chairs* ~~The subcommittee may meet monthly at a time and place as the co-chairs may determine.~~ The members of the subcommittee shall be compensated for attending meetings as provided in KRS 7.090.
- (5) Any professional, clerical, or other employees required by the subcommittee shall be provided in accordance with the provisions of KRS 7.090.

Section 7. KRS 248.723 is amended to read as follows:

- (1) There is created a permanent subcommittee of the Legislative Research Commission to be known as the Tobacco Settlement Agreement Fund Oversight Committee. The subcommittee shall be composed of twelve (12) members and shall include *four (4)* ~~six (6)~~ members of the House of Representatives *appointed by the Speaker; two (2) members of the minority party in the House of Representatives appointed by the Minority Floor Leader; four (4)* ~~and six (6)~~ members of the Senate *appointed by the President; and two (2) members of the minority party in the Senate appointed by the Minority Floor Leader.* ~~The subcommittee shall include members of the minority party as nearly proportional to their membership in the General Assembly as mathematically possible. The Legislative Research Commission shall appoint, from the membership of each house of the General Assembly,~~ The members of the subcommittee *shall serve* for terms of two (2) years. The appointed members *from each chamber* shall elect one (1) *member from their chamber* ~~of their number~~ to serve as *co-chair* ~~chair~~. Any vacancy that may occur in the membership of the subcommittee shall be filled *pursuant to subsection (1) of this section* by the *same appointing authority who made the original appointment* ~~Legislative Research Commission at its next regularly scheduled meeting after the vacancy occurs.~~
- (2) The *co-chairs shall have joint responsibilities for committee meeting agendas and presiding at committee meetings* ~~subcommittee shall meet monthly, or at the call of the chair.~~ The members of the subcommittee shall be compensated for attending meetings as provided in KRS 7.090(3) and 7.110(5).
- (3) *A majority of the entire membership of the Tobacco Settlement Agreement Fund Oversight Committee shall constitute a quorum, and all actions of the subcommittee shall be by vote of a majority of its entire*

~~**membership**~~ ~~[A quorum of the subcommittee shall consist of seven (7) members. A majority of the members present may act upon matters before the subcommittee].~~

- (4) Any professional, clerical, or other employees required by the subcommittee shall be provided in accordance with KRS 7.090(4) and (5).
- (5)
 - (a) Subsections (6) to (10) of this section shall apply only to the expenditures from and projects under the agricultural development fund;
 - (b) Subsection (11) shall apply to all expenditures under the tobacco settlement agreement fund created in KRS 248.654; and
 - (c) Subsection (12) shall apply to expenditures from the early childhood development fund and the Kentucky health care improvement fund created in KRS 200.151 and 194A.055.
- (6) The subcommittee shall review each project being submitted to the Agricultural Development Board. In reviewing the projects, the subcommittee shall determine whether the criteria or requirements required by KRS 248.701 to 248.727 have been met and whether any other relevant requirements have been met.
- (7)
 - (a) If the subcommittee determines that any of the criteria or requirements required by KRS 248.701 to 248.727, except as provided in subsection (5) of this section, have not been met, the subcommittee may, by majority vote, recommend to the board in writing that a project not be approved.
 - (b) If the subcommittee determines that all relevant criteria were met for proposals not approved by the board, the subcommittee may, by majority vote, recommend to the board in writing that the project be approved.
 - (c) The reasons for recommending that a project be approved or not approved shall be stated in correspondence from the subcommittee, which shall be issued within thirty (30) days of action of the subcommittee.
- (8) If the board proceeds with approval of a project under the agricultural development fund that the subcommittee has recommended in writing not be approved, or refuses to approve a project that the subcommittee has recommended in writing be approved, the board shall provide a written explanation to the subcommittee as to why the board took that action on the project. The written explanation shall be sent within thirty (30) days of receiving the subcommittee's notification.
- (9) The subcommittee shall also hear cases that arise under KRS 248.721(8) and 248.711(4). In these cases the subcommittee shall provide a forum for discussion and possible resolution of differences between the board and the affected party. If the differences are not resolved, the subcommittee may, by majority vote, recommend to the board in writing a course of action.
- (10) The subcommittee shall maintain records of its findings and determinations. The records shall be transmitted to the appropriate interim joint committees of the Legislative Research Commission within thirty (30) days of making any determination.
- (11) The subcommittee shall issue an annual written report to the Legislative Research Commission regarding the findings of the subcommittee.
- (12) All expenditures under the early childhood development fund and the Kentucky health care improvement fund created in KRS 200.151 and 194A.055 shall be reported to the subcommittee. The expenditures shall be submitted in an electronic format in a manner approved by the Legislative Research Commission in order for the Commission to have a repository of information in Master Settlement Agreement funding expenditures.

Section 8. KRS 7A.110 is amended to read as follows:

- (1) The Capital Planning Advisory Board of the Kentucky General Assembly shall consist of **sixteen (16)** ~~fifteen (15)~~ members. The manner of appointment and terms of the members of the board shall be as follows:
 - (a) Four (4) members shall be appointed by the Governor to represent the executive branch of state government. These members shall serve for a term of four (4) years and until their successors are appointed.

- (b) Four (4) members shall be appointed by the Chief Justice of the Supreme Court to represent the judicial branch of state government. These members shall serve for a term of four (4) years and until their successors are appointed.
- (c) Four (4) members shall represent the legislative branch of state government and shall be appointed and serve as follows:
 - 1. The Speaker of the House of Representatives shall appoint two (2) members, each of whom shall serve while a member of the House for the term for which he has been elected, **and one (1) of whom shall be designated co-chair**; and
 - 2. The President of the Senate shall appoint two (2) members, each of whom shall serve while a member of the Senate for the term for which he has been elected, **and one (1) of whom shall be designated co-chair**.
- (d) **Four (4)**~~Three (3)~~ public members shall be appointed from the Commonwealth at large, one (1) by the Governor, one (1) by the Chief Justice, ~~and one (1) by the~~ **President of the Senate, and one (1) by the Speaker of the House of Representatives**~~Legislative Research Commission~~. The public members shall serve for a term of four (4) years and until their successors are appointed.
- (2) Any vacancy on the board shall be filled in the same manner as the original appointment.
- (3) The **co-chairs shall have joint responsibilities for board meeting agendas and presiding at board meetings**~~board shall elect one (1) of its members to serve as chairman for a term of two (2) years~~.
- (4) **On an alternating basis, each co-chair shall have the first option to set the monthly meeting date. A monthly meeting may be canceled by agreement of both co-chairs.** The board shall meet~~at the call of the chairman, but~~ at least twice during each calendar year.
- (5) Members of the board shall be entitled to reimbursement for expenses incurred in the performance of their duties.
- (6) **A majority of the entire membership of the Capital Planning Advisory Board shall constitute a quorum, and all actions of the board shall be by vote of a majority of its entire membership.**

Section 9. KRS 7B.030 is amended to read as follows:

- (1) The board of the Kentucky Long-Term Policy Research Center shall consist of twenty-one (21) members, including ten (10) members selected from state government and eleven (11) at-large members selected from the private and civic sectors, universities, and local governments.
 - (a) State government members shall be appointed as follows:
 - 1. **Two (2)**~~Three (3)~~ members of the House of Representatives **shall be appointed by the Speaker of the House of Representatives and one (1) member of the minority party in the House of Representatives shall be appointed by the Minority Floor Leader in the House of Representatives.** **Two (2)**~~three (3)~~ members of the Senate shall be appointed by the **President of the Senate and one (1) member of the minority party in the Senate shall be appointed by the Minority Floor Leader in the Senate**~~Legislative Research Commission~~; and
 - 2. Four (4) members from the executive branch shall be appointed by the Governor.
 - (b) At-large members shall be appointed as follows:
 - 1. Five (5) members shall be appointed by the Legislative Research Commission~~and confirmed by the House of Representatives and the Senate~~; and
 - 2. Six (6) members shall be appointed by the Governor and confirmed by the House of Representatives and the Senate;
 - 3. Persons appointed may serve prior to confirmation, but shall continue to serve only if confirmed at the next regular session, or special session if the matter is included in the call therefor of the General Assembly;
 - 4. The provisions of KRS 11.160 shall apply to Senate and House of Representatives confirmation of at-large members appointed by the~~Legislative Research Commission and the~~ Governor.
- (2) Board members shall serve four (4) year terms, except initial appointments shall be for terms as follows:

- (a) The Legislative Research Commission shall initially appoint two (2) legislators for terms of two (2) years, two (2) legislators for terms of three (3) years and two (2) legislators for terms of four (4) years; and shall initially appoint one (1) at-large member for a two (2) year term, two (2) at-large members for three (3) year terms, and two (2) at-large members for four (4) year terms.
- (b) The Governor shall initially appoint two (2) members from the executive branch for terms of two (2) years, one (1) for a three (3) year term, and one (1) for a four (4) year term, and shall initially appoint two (2) at-large members for terms of two (2) years, two (2) for three (3) year terms, and two (2) for four (4) year terms.
- (3) Members of the board shall meet the same age and state residency requirements as provided in Section 32 of the Kentucky Constitution for members of the House of Representatives, shall represent the cultural diversity of Kentucky, and shall have demonstrated an interest in the well-being and development of the Commonwealth.
- (4) The chair shall be elected annually by the board and shall alternate between the members selected from state government and the at-large members. If the chair is a member selected from state government, the vice chair shall be an at-large member, and if the chair is an at-large member, the vice chair shall be a member selected from state government.
- (5) Board members who miss three (3) consecutive meetings may be removed from the board by a majority vote of the board at any regularly scheduled meeting in which a quorum is present. The position shall then be declared vacant and shall be filled in the same manner as it was originally appointed.
- (6) If vacancies are not filled by the original appointing authority within thirty (30) days of the occurrence of the vacancy, the board may fill the vacancy.
- (7) *A majority of the entire membership of the board shall constitute a quorum, and all actions of the board shall be by vote of a majority of its entire membership.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *The monthly meeting schedule for interim joint committees of the Legislative Research Commission shall begin on June 1 and continue through December 1 of each year. During that period, upon agreement of the co-chairs, an interim joint committee shall have the authority to meet according to the most recent regular monthly meeting schedule approved by a majority of the entire membership of the Commission. With an affirmative vote of a majority of its entire membership, the Commission may alter the beginning and concluding dates of authorization granted in this subsection for regular monthly meetings of interim joint committees during the current calendar year, authorize any additional meeting of any interim joint committee, or disapprove any meeting of any interim joint committee.*
- (b) *The co-chairs of each interim joint committee shall have joint responsibility for approving meeting agendas and presiding at meetings. If the co-chairs of any interim joint committee cannot agree on convening a monthly meeting, each co-chair, with the agreement of the presiding officer of the co-chair's chamber, may convene a meeting of the interim joint committee members who are members of the co-chair's chamber. If such a meeting is convened, it shall be on the regular monthly meeting date of the interim joint committee, and it shall be staffed by the Commission. Not more than three (3) such meetings shall be convened by each co-chair in a calendar year.*
- (c) *Subcommittees of interim joint committees shall be authorized to meet according to the policies and practices of the Commission.*
- (2) *For purposes of this section, "interim joint committees" means those subcommittees of the Commission which are constituted by combining the membership of Senate and House standing committees pursuant to the most recent interim joint committee structure approved by a majority of the entire membership of the Commission. After the effective date of this Act, until such time as the Commission, by an affirmative vote of a majority of its entire membership, adopts a new interim joint committee structure, the most recent interim joint committee structure adopted by the Commission shall be considered to include an Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection, consisting of the members of the Senate Standing Committee on Veterans, Military Affairs, and Public Protection and the House Standing Committee on Seniors, Military Affairs, and Public Safety.*

Section 11. KRS 7.090 is amended to read as follows:

- (1) There is created a Legislative Research Commission as an independent agency *in the legislative branch* of state government, ~~and~~ which is exempt from control by the executive branch and from reorganization by the Governor. The Commission shall have the duties, responsibilities, and powers assigned to it or authorized it by the General Assembly, by statute or otherwise.
- (2) The Legislative Research Commission shall be composed of the President of the Senate, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Speaker Pro Tempore of the House of Representatives, the majority and minority floor leaders of the Senate and the House of Representatives, the majority and minority ~~whips~~ ~~party whip~~ of the Senate, the majority and minority ~~whips~~ ~~party whip~~ of the House, *and* the majority and minority caucus chairmen of the Senate and House of Representatives. Any vacancy in the Commission shall be filled by the remaining members thereof *who are of the same chamber membership and political party affiliation as the person having vacated Commission membership.* ~~provided,~~ If the vacancy is in the membership of the House of Representatives, ~~then~~ the successor shall be from the House, and if the vacancy is from the Senate membership of the Commission, ~~then~~ the successor shall be from the Senate. A member thus elected to fill any vacancy shall hold office for the unexpired term of his predecessor. The President of the Senate and the Speaker of the House of Representatives shall serve as co-chairmen of the Commission.
- (3) The Legislative Research Commission shall meet during regular and special sessions of the General Assembly, and during the intervals between sessions at such times and places as the co-chairmen may determine. Meetings of the Commission shall be called by the co-chairmen on their own initiative, or at the written request of any three (3) members of the Commission. *Any action of the Commission shall require an affirmative roll call vote of a majority of the Commission's entire membership.* For attending meetings of the Commission or any of its subcommittees whose membership consists only of members of the Commission between sessions of the General Assembly, the members of the Commission shall be paid their necessary traveling expenses and in addition thereto an amount per day equal to the per diem compensation they receive during any session. For attending meetings of interim joint committees or other Commission subcommittees, members of the Commission shall be paid an amount per day equal to that received by all other members of the committees or subcommittees who are not designated as chairmen or co-chairmen thereof.
- (4) The Commission shall appoint a director, who shall have had graduate training in government in a recognized university or college or practical experience in governmental administration, and who shall hold office at the pleasure of the Commission. The salary of the director shall be determined by the Commission. The Commission shall have exclusive jurisdiction over the employment of such personnel as may be necessary to effectuate the provisions of KRS 7.090 to 7.110.
- (5) Any professional, clerical, or other employees required by any committee appointed by the General Assembly shall be provided to the committee by the Legislative Research Commission. The chairman of the committee shall advise the director of the Legislative Research Commission of his need for personnel. In the event that the personnel required by any committee cannot be met by the staff of the Legislative Research Commission, the director shall employ personnel as necessary to meet the needs of the committee, and shall fix the rate of compensation of the employees.
- (6) The director shall, at the discretion of the Commission and under its supervision and control, provide for the allocation of the work and activities of all employees of the Commission.
- (7) The Commission may, in effectuating the provisions of KRS 7.090 to 7.110, contract with any public or private agency or educational institution or any individual for research studies, the gathering of information, or the printing and publication of its reports.
- (8) The Legislative Research Commission shall constitute administrative offices for the General Assembly and the director shall serve as administrative officer for the assembly when it is not otherwise in session.
- (9) *A Senate bill may be pre-filed or approved as pre-filed by an interim joint committee if it receives the affirmative votes of a majority of the Senate members of that interim joint committee. A House of Representatives bill may be pre-filed or approved as pre-filed by an interim joint committee if it receives the affirmative votes of a majority of the House members of that interim joint committee. An interim joint committee shall not pre-file a bill or approve a bill as pre-filed in any other manner.*
- (10) *The President of the Senate and the Speaker of the House of Representatives shall have the authority to approve the in-state and out-of-state per diem and expenses for members of their respective chambers.*

Section 12. The following KRS sections are repealed:

- 6.226 Legislative Compensation Commission -- Membership.
- 6.227 Terms -- Chairman -- Expenses.
- 6.228 Duties.
- 6.229 Legislative budget to include recommendations of commission.
- 13A.032 Effect of finding of deficiency.
- 13A.333 Expiration of deficient regulations.

Section 13. Whereas the work of the legislative committees and subcommittees addressed in this Act is ongoing and does not conform to the regular interim committee schedule, making it necessary to appoint the members as soon as possible, an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved March 31, 2003

CHAPTER 186

(HCR 45)

A CONCURRENT RESOLUTION confirming the reappointment of John R. Hall to the Council on Postsecondary Education.

WHEREAS, KRS 164.011 requires the Governor to appoint thirteen citizen members to the Council on Postsecondary Education, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, the Governor has reappointed John R. Hall as a citizen member of the Council on Postsecondary Education for a term expiring December 31, 2008; and

WHEREAS, the House of Representatives and the Senate find that John R. Hall meets the requirements of KRS 164.0053 and KRS 164.011 for service on 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. The House of Representatives and the Senate, as required by KRS 164.011, hereby confirm the reappointment of John R. Hall to the Council on Postsecondary Education for a term expiring December 31, 2008.

Section 2. The Clerk of the House of Representatives shall notify Mr. John R. Hall, 101 Idle Hour Drive #4, Lexington, Kentucky 40502 and Governor Paul E. Patton, State Capitol, Room 100, Frankfort, Kentucky 40601, in writing, of the General Assembly's action.

Approved March 31, 2003

CHAPTER 187

(HB 398)

AN ACT relating to safety education.

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

SECTION 1. A NEW SECTION OF KRS 95A.200 TO 95A.300 IS CREATED TO READ AS FOLLOWS:

- (1) *There is hereby created a Safety Education Fund to be administered by the Commission on Fire Protection Personnel Standards and Education to initiate education programs in the public schools and other agencies to reduce and prevent injuries and the loss of life. The fund shall:*

- (a) *Provide funding for a statewide "Risk Watch" program to be implemented in the public schools;*

- (b) *Provide funding for statewide fire safety initiatives and programs including the "Learn Not to Burn Program;" and*
- (c) *Allot grants to fire departments to provide resources for public education programs.*
- (2) *The commission shall promulgate administrative regulations to establish the criteria for providing funds to initiate injury prevention curricula and training programs throughout the state. The funding criteria shall include requirements that the recipients of funds work in cooperation with other agencies to establish the programs.*

Approved March 31, 2003

CHAPTER 188

(HB 43)

AN ACT relating to information technology systems.

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

Section 1. KRS 45.750 is amended to read as follows:

- (1) As used in KRS 45.760 to 45.810:
 - (a) "Committee" means the Capital Projects and Bond Oversight Committee.
 - (b) "Capital construction item" means:
 - 1. The construction, reconstruction, acquisition, and structural maintenance of buildings;
 - 2. The installation of utility services, including roads and sewers;
 - 3. The acquisition or improvement of real property;
 - 4. The purchase and installation initially or during major renovation of equipment, facilities, and furnishings of a permanent nature for buildings;
 - 5. The acquisition of any building to be occupied by any:
 - a. Subdivision of state government as defined in KRS 12.010 or enumerated in KRS 12.020;
 - b. Municipal corporation which exercises its authority on a statewide basis including, but not limited to, the Kentucky Employees Retirement System, Teachers' Retirement System of the State of Kentucky, Kentucky Higher Education Student Loan Corporation, Kentucky Lottery Corporation, Kentucky Housing Corporation, or any entity with a governing body whose membership is substantially similar to the membership of the governing body of a municipal corporation which exercises its authority on a statewide basis; and
 - c. Institution of higher education.
 - (c) "Lease" means any lease, lease-purchase, or lease with an option to purchase of any real property space occupied by:
 - 1. Any entity listed in paragraph (b)5. of this subsection;
 - 2. The legislative branch; or
 - 3. The judicial branch when leased from a private sector landlord.
 - (d) "Equipment" means:
 - 1. Any major item of equipment, including aircraft;
 - 2. Any movable furnishing, appurtenance, or other equipment, necessary to make a building operable; and
 - 3. Equipment purchased or otherwise acquired, or equipment to be purchased or otherwise to be acquired, under a lease or lease-purchase contract or agreement or an arrangement equivalent to a lease or lease-purchase contract or agreement.

- (e) **"Information technology system"** means any *related* computer or telecommunications *components that provide a functional system for a specific business purpose and contain one (1) or more of the following*:
1. **Hardware;**
 2. **Software, including application software, systems management software, utility software, or communications software;**
 3. **Professional services for requirements analysis, system integration, installation, implementation, or data conversion services; or**
 4. **Digital data products, including acquisition and quality control**~~system, as defined in an administrative regulation which shall be promulgated by the Governor's Office for Technology~~.
- (f) **"Capital projects"** means, regardless of the source of cash or other consideration:
1. Any capital construction item, or any combination of capital construction items necessary to make a building or utility installation complete, estimated to cost four hundred thousand dollars (\$400,000) or more in cash or other consideration;
 2. Any lease of real property space with an annual rental cost exceeding two hundred thousand dollars (\$200,000);
 3. The use allowance paid by the judicial branch for a real property space pursuant to KRS 26A.090(2) and 26A.115 when the use allowance for the space exceeds two hundred thousand dollars (\$200,000) on an annual basis;
 4. Any item of equipment estimated to cost one hundred thousand dollars (\$100,000) or more in cash or other consideration;
 5. Any lease of an item of movable equipment if the annual cost of the lease is one hundred thousand dollars (\$100,000) or more or if the total cost of the lease-purchase or lease with an option to purchase is one hundred thousand dollars (\$100,000) or more; and
 6. Any ***new acquisition, upgrade, or replacement of an information technology*** system estimated to cost four hundred thousand dollars (\$400,000) or more in cash or other consideration.
- (g) **"Emergency repair, maintenance, or replacement project"** means the maintenance, repair, or reconstruction of a capital construction project or the maintenance, repair, or replacement of a major item of equipment that is:
1. Necessitated by injury or damage resulting from a disaster;~~or~~
 2. Necessary to maintain government operations or to prevent or minimize injury or damage that could reasonably be expected to result from an impending disaster; or
 3. Necessitated by an unforeseen mechanical breakdown, electrical breakdown, or structural defect that must be corrected to make a facility or item of equipment usable.
- (h) **"Disaster"** means a fire, flood, tornado, other natural disaster, riot, enemy attack, sabotage, explosion, power failure, energy shortage, transportation emergency, or other man-caused disaster.
- (i) **"Capital construction funds"** means any funds used for capital construction, including, but not limited to, appropriated capital construction funds, agency funds, federal funds, private funds, or funds from any source held by an agency for management or investment purposes.
- (j) **"Entity head"** means the Chief Justice of the Supreme Court, the President of the Senate and the Speaker of the House of Representatives, the secretary of the Finance and Administration Cabinet, the president of any university which complies with KRS 164A.585, 164A.595, and 164A.600, the board of trustees of the Kentucky Employees Retirement System, the board of trustees of the Teachers' Retirement System of the State of Kentucky, the board of directors of the Kentucky Higher Education Student Loan Corporation, the board of directors of the Kentucky Lottery Corporation, or the board of directors of the Kentucky Housing Corporation.

- (2) Except as provided in subsection (3) of this section, KRS 45.760 to 45.810 shall apply to capital projects and bonds for use by:
- (a) The state government;
 - (b) One of its departments or agencies, as defined in KRS 12.010 or enumerated in KRS 12.020;
 - (c) A municipal corporation which exercises its authority on a statewide basis including, but not limited to, the Kentucky Employees Retirement System, Teachers' Retirement System of the State of Kentucky, Kentucky Higher Education Student Loan Corporation, Kentucky Lottery Corporation, and Kentucky Housing Corporation; and
 - (d) Institutions of higher education.
- (3) KRS 45.760 to 45.810 shall not apply to:
- (a) Capital projects or bonds used directly in or for the construction or maintenance of roads, including, but not limited to, bulldozers, graders, earth movers, and real estate purchased for rights-of-way; and
 - (b) Political subdivisions, except for those defined in KRS 12.010, enumerated in KRS 12.020, or created as a municipal corporation which exercises its authority on a statewide basis including, but not limited to, the Kentucky Employees Retirement System, Teachers' Retirement System of the State of Kentucky, Kentucky Higher Education Student Loan Corporation, Kentucky Lottery Corporation, Kentucky Housing Corporation, or any entity with a governing body whose membership is substantially similar to the membership of the governing body of a municipal corporation which exercises its authority on a statewide basis. However, the provisions of KRS 45.750 to 45.810 shall not apply to acquisition or maintenance of any building or land which is purchased as a legal investment by any of the state retirement systems, which is not to be occupied by the retirement system, and which is financed solely with those assets of the retirement system used for investment purposes.

Section 2. KRS 7A.010 is amended to read as follows:

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

- (1) "Capital project" means:
- (a) Any undertaking which is to be financed or funded through an appropriation by the General Assembly of general fund, road fund, bond fund, trust and agency fund, or federal fund moneys, where the expenditure is a capital expenditure pursuant to statute or under standards prescribed by the Legislative Research Commission under the authority of KRS Chapter 48;~~{or}~~
 - (b) Any undertaking which is to be financed by a capital expenditure for use by the state government or one of its departments or agencies, as defined in KRS 12.010 or enumerated in KRS 12.020, including projects related to the construction or maintenance of roads, and including projects of institutions of higher education as defined in KRS 164A.550(2);~~{or}~~
 - (c) Any capital construction item, or any combination of capital construction items necessary to make a building or utility installation complete, estimated to cost four hundred thousand dollars (\$400,000) or more, or any item of movable equipment, estimated to cost one hundred thousand dollars (\$100,000) or more, regardless of the source of funds;~~{or}~~
 - (d) Any lease of real property whose value is two hundred thousand dollars (\$200,000) or more;~~{or}~~
 - (e) Any lease of an item of movable equipment if the total cost of the lease, lease-purchase, or lease with an option to purchase is one hundred thousand dollars (\$100,000) or more; **or**
 - (f) ***Any new acquisition, upgrade, or replacement of an information technology system estimated to cost four hundred thousand dollars (\$400,000) or more.***
- (2) "Board" means the Capital Planning Advisory Board of the Kentucky General Assembly created by KRS 7A.110.
- (3) "Plan" means the state capital improvement plan provided for by KRS 7A.120.
- (4) "State agency" means any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other entity of the executive, judicial, or legislative branch of the state government.

- (5) *"Information technology system" means any related computer or telecommunications components that provide a functional system for a specific business purpose and contain one (1) or more of the following:*
- (a) *Hardware;*
 - (b) *Software, including application software, systems management software, utility software, or communications software;*
 - (c) *Professional services for requirements analysis, system integration, installation, implementation, or data conversion services; or*
 - (d) *Digital data products, including acquisition and quality control.*

Approved April 3, 2003

CHAPTER 189

(HB 63)

AN ACT relating to traffic safety matters.

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

SECTION 1. A NEW SECTION OF KRS 186.400 TO 186.640 IS CREATED TO READ AS FOLLOWS:

- (1) *The circuit clerk shall, before issuing or renewing a Kentucky operator's license, verify through the National Drivers Register that the person applying for an initial or renewal Kentucky operator's license does not currently have his or her operator's license or driving privilege suspended or revoked in another licensing jurisdiction.*
- (2) *If the person's operator's license or driving privilege is currently suspended or revoked in another licensing jurisdiction for a traffic offense where the conviction for the offense is less than five (5) years old, the circuit clerk shall not issue the person an initial or renewal Kentucky operator's license until the person resolves the matter in the other licensing jurisdiction and complies with the provisions of this chapter.*
- (3) *A person whose operator's license has been suspended or revoked in another licensing jurisdiction, or the holder of a Kentucky operator's license whose driving privileges have been suspended in another licensing jurisdiction, may be issued a Kentucky license, or may renew a Kentucky license if:*
 - (a) *The conviction causing the suspension or revocation is more than five (5) years old;*
 - (b) *The conviction is for a traffic offense other than a felony traffic offense or a habitual violator offense; and*
 - (c) *The person has been a resident of the Commonwealth for at least five (5) years prior to the date of application for issuance or renewal.*
- (4) *(a) A person applying for an operator's license under subsection (3) of this section shall submit an application to the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.*
 - (b) *The Transportation Cabinet shall, within fifteen (15) days of receipt of the application, determine if the person is eligible to receive a license under subsection (3) of this section.*
 - (c) *If the Transportation Cabinet determines the person may be issued a license under subsection (3) of this section, the cabinet shall issue the person an official form that the applicant shall present to the circuit clerk of the county where the person resides. Upon receipt of this notice, and completion of any examinations required under KRS 186.480, the circuit clerk shall issue the applicant a license under subsection (3) of this section.*
- (5) *A person issued a Kentucky operator's license in accordance with subsection (3) of this section shall be issued an operator's license marked "Valid in Kentucky Only" and shall sign a statement that the person understands that he or she may be subject to arrest and detention if stopped by a law enforcement officer in another state while operating a motor vehicle on this restricted license.*

- (6) *If a person granted a license under subsection (3) of this section satisfies the requirements to have the suspension or revocation in another state lifted, the person shall apply to the circuit clerk to be issued a new license without the restrictions outlined in subsection (3) of this section.*
- (7) *The provisions of subsection (3) of this section shall not apply to a commercial driver's license.*

Section 2. KRS 186.440 is amended to read as follows:

An operator's license shall not be granted to:

- (1) Any person who is not a resident of Kentucky;
- (2) Any person under the age of sixteen (16);
- (3) Any person under the age of eighteen (18) who holds a valid Kentucky instruction permit issued pursuant to KRS 186.450, but who has not graduated from high school or who is not enrolled and successfully participating in school or who is not being schooled at home, except those persons who satisfy the District Court of appropriate venue pursuant to KRS 159.051(3) that revocation of their license would create an undue hardship. Persons under the age of eighteen (18) shall present proof of complying with the requirements of KRS 159.051;
- (4) Any person whose operator's license has been suspended, during the period of suspension, *subject to the limitations of Section 1 of this Act*;
- (5) Any person whose operator's license has been revoked, nor to any nonresident whose privilege of exemption under KRS 186.430 has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued;
- (6) Any applicant adjudged incompetent by judicial decree;
- (7) Any person who in the opinion of the State Police, after examination, is unable to exercise reasonable and ordinary control over a motor vehicle upon the highways;
- (8) Any person who is unable to understand highway warnings or direction signs in the English language;
- (9) Any person required by KRS 186.480 to take an examination who has not successfully passed the examination;
- (10) Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof;
- (11) Any person who has not filed a correct and complete application attested to in the presence of a person authorized to administer oaths;
- (12) Any person who cannot meet the requirements set forth in KRS 186.411(1) or (3); or
- (13) Any person whose operator's license has been suspended or revoked under the provisions of KRS Chapter 186, 187, or 189A until the person has forwarded to the cabinet a reinstatement fee of fifteen dollars (\$15). The fee shall be paid by certified check or money order payable to the State Treasurer who shall deposit five dollars (\$5) of the fee in a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers. Ten dollars (\$10) of the fee shall be deposited by the State Treasurer in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees, providing salary adjustments for employees, providing training for employees, and purchasing additional equipment used in administering the issuance of driver's licenses. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of the individuals are reinstated or to any student who has had his license revoked pursuant to KRS 159.051.

Section 3. 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) That person has presented false or misleading information as to the person's residency, citizenship, religious convictions, or immigration status.
 - (g) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.
 - (h) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.
 - (i) 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.
 - (j) 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 KRS 532.356 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) (a) 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. ***The cabinet shall not suspend an operator's license under this paragraph if:***

1. *The conviction causing the suspension or revocation is more than five (5) years old;*
 2. *The conviction is for a traffic offense other than a felony traffic offense or a habitual violator offense; and*
 3. *The license holder complies with the provisions of Section 1 of this Act.*
- (b) *If, at the time of application for an initial Kentucky operator's license, a person's license is suspended or revoked in another state for a conviction that is less than five (5) years old*~~*[If a person so convicted is not the holder of a Kentucky operator's license]*~~, the cabinet shall deny the person a license until the person resolves the matter in the other state and complies with the provisions of this chapter.
- (c) 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.
- (d) *This subsection shall not apply to a commercial driver's license.*
- (6) 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) 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) 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 4. A NEW SECTION OF KRS CHAPTER 434 IS CREATED TO READ AS FOLLOWS:

Any person who knowingly installs or reinstalls in a vehicle any object, in lieu of an air bag that was designed in accordance with federal safety regulations for the make, model, and year of the vehicle, as part of a vehicle inflatable restraint system, shall be fined not more than five thousand dollars (\$5,000), or be confined in the county jail for not more than twelve (12) months, or both.

Approved April 3, 2003

CHAPTER 190

(HB 99)

AN ACT relating to an advance directive for mental health treatment.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 of this Act, unless the context requires otherwise:

- (1) *"Advance directive for mental health treatment" or "advance directive" means a written document, or a document in a form consistent with the provisions of the federal Americans with Disabilities Act (ADA), made voluntarily by a grantor in accordance with the provisions of Sections 1 to 7 of this Act that provides instructions for mental health treatment.*
- (2) *"Grantor" means an adult eighteen (18) years of age or older whose right to make health care decisions or to execute legal documents has not been limited and who has executed an advance directive for mental health treatment.*
- (3) *"Surrogate" means an adult who has not provided health care services to the grantor, who has been designated by the grantor to act, and who agrees to act on behalf of the grantor in accordance with Sections 1 to 7 of this Act. The term includes an alternate surrogate.*

- (4) *"Procedures for emergency intervention" means the use of physical or chemical restraint or seclusion in an emergency situation.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

- (1) *An adult may execute an advance directive for mental health treatment that includes one (1) or more of the following:*
- (a) *Refusal of specific psychotropic medications, but not an entire class of psychotropic medications. This refusal may be due to factors that include but are not limited to their lack of efficacy, known drug sensitivity, or previous experience of adverse reactions;*
 - (b) *Refusal of electric shock therapy (ECT);*
 - (c) *Stated preferences for psychotropic medications;*
 - (d) *Stated preferences for procedures for emergency interventions; and*
 - (e) *Provision of information in any area specified by the grantor.*
- (2) *The execution of an advance directive shall be complete when signed by the grantor and:*
- (a) *Signed by two (2) adult witnesses who attest that the grantor:*
 - 1. *Is known to them;*
 - 2. *Signed the advance directive in their presence; and*
 - 3. *Did not appear to be under duress, fraud, or undue influence; or*
 - (b) *Acknowledged before a notary public or other person authorized to administer oaths.*
- (3) *The following persons shall not serve as a witness, a notary public, or other person authorized to administer oaths to the signing of an advance directive:*
- (a) *The grantor's current health care provider or a relative of the current health care provider; and*
 - (b) *An owner, operator, employee, or relative of an owner or operator of a health facility in which the grantor is a client or resident.*
- (4) *An advance directive shall not override the grantor's right under federal and state law to refuse treatment.*
- (5) *The grantor or the surrogate of the grantor shall be responsible for providing a copy of the advance directive to the grantor's health care provider and health care facility where the grantor is a patient.*
- (6) *An advance directive for mental health treatment shall be honored in any setting, except a hospital emergency room or a hospital emergency department, that is required to honor advance directives under Title XVIII or Title XIX of the federal Social Security Act.*
- (7) *A health care provider, health care facility, surrogate, or other responsible party shall not be subject to criminal prosecution or civil liability if acting in agreement with an advance directive for mental health treatment executed in accordance with Sections 1 to 7 of this Act or if acting in good faith without knowledge of the existence or revocation of an advance directive.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

- (1) *A surrogate designated by a grantor in an advance directive for mental health treatment shall act on behalf of the grantor in accordance with the desires of the grantor as indicated in the advance directive and may override the advance directive only if there is substantial medical evidence that failing to do so would result in harm to the grantor.*
- (2) *When acting on behalf of the grantor, the surrogate shall consider the recommendations of the health care provider and honor the decisions made by the grantor as expressed in the advance directive.*
- (3) *If the grantor's instructions or preferences are not stated in the advance directive, the surrogate may act in good faith on behalf of the grantor in the manner that the surrogate believes the grantor would act.*
- (4) *A surrogate may resign at any time by giving written notice to the grantor, to the immediate successor surrogate, if any, to the attending health care provider, or to the health care facility.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

- (1) *A health care provider or health care facility shall provide mental health treatment that complies with the instructions in an advance directive to the fullest extent possible when the instructions are within standards for mental and physical health care and permitted by state and federal law.*
- (2) *A health care provider or health care facility may override expressed refusals of treatment only if:*
 - (a) *A court order contradicts the advance directive; or*
 - (b) *There is an emergency endangering a person's life or posing a serious risk to physical health.*
- (3) *Deviations from expressed preferences in an advance directive shall be documented by the health care provider or health care facility in the grantor's medical record.*
- (4) *A health care provider or health care facility that refuses to comply with an advance directive of a grantor or a decision made by a surrogate shall:*
 - (a) *Immediately inform the grantor or surrogate, if one is designated, of the refusal; and*
 - (b) *Not impede the transfer of the grantor to another health care provider or health care facility.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

An advance directive may be revoked by:

- (1) *A document that is signed and dated by the grantor and declares an intention to revoke;*
- (2) *An oral statement of intent to revoke made by a grantor to a health care provider in the presence of some other person; or*
- (3) *Destruction of the document by the grantor or by some person in the grantor's presence at the grantor's direction.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

An advance directive for mental health treatment shall be in substantially the following form:

"Advance directive for mental health treatment

I, _____, willfully and voluntarily execute this advance directive for mental health treatment. I want the instructions in this advance directive to be followed as described below.

Designated surrogate

____I am naming a surrogate to see that my instructions for mental health treatment are carried out.

____I am not naming a surrogate to see that my instructions for mental health treatment are carried out.

I designate _____ to act as my surrogate. If this person withdraws or is unwilling to act on my behalf, or if I revoke that person's authority to act as my surrogate, I designate _____ to act as my alternate surrogate.

If I do not designate a surrogate, if my surrogate and alternate surrogate withdraw or are unwilling to act on my behalf, or if I revoke their authority to act, then the health care provider and health care facility may proceed to render treatment in accordance with my instructions as described here and in accordance with standards for mental and physical health care.

The person acting as my surrogate is authorized to act in accordance with the content of this advance directive and may override the advance directive if, and only if, there is substantial medical evidence that failing to do so would result in harm to me. If my instructions and preferences are not stated in the advance directive, the surrogate may act in good faith in making treatment decisions in the manner in which the surrogate believes I would act.

Psychotropic medication provisions

I may indicate below any refusals of treatment with specific psychotropic medications, not to include an entire class of medications, due to factors that may include but are not limited to lack of efficacy, known drug sensitivity, or experience of adverse reaction:

I specifically do not consent and do not authorize my surrogate to consent to the administration of the following medications or their respective brand-name or generic equivalents for the reasons given:

Specific psychotropic medication

Reason for refusal

I may list below any specific psychotropic medications that I would be willing to have administered to me if additional medications become necessary:

Specific psychotropic medications:

Electroconvulsive therapy provisions

Below are my instructions regarding electroconvulsive therapy (ECT):

☐ *I consent to electroconvulsive therapy (ECT) if it is deemed clinically appropriate to treat my condition.*

☐ *I do not consent to electroconvulsive therapy (ECT).*

Preferred procedures for emergency interventions

I may state preferences for procedures for emergency interventions to be used when necessary for my protection or the protection of others. I understand that I am requesting consideration of my preferences for procedures for emergency interventions but that my surrogate, my health care provider, and the health care facility where I am a patient are not subject to civil liability for not abiding by these preferences. I understand that in the case of possible harm to myself or others, my health care provider or the health care facility may need to use procedures that override my stated preferences. If during an admission or while a patient in a health care facility, it is determined that I am engaging in behavior that requires emergency intervention, my preferences regarding the procedures to be used during an emergency intervention and the order that I prefer the interventions to be used are as follows:

<i>Intervention</i>	<i>Order of preference</i>	<i>Reason for this preference</i>
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Seclusion _____

Physical restraints _____

Seclusion and physical

restraint combined _____

Medication by injection _____

Medication in pill form _____

Liquid medication _____

Other: _____

Signed this _____ *day of* _____, 20__

Signature of grantor: _____

Address of grantor: _____

In my presence, the grantor voluntarily dated and signed this writing or directed it to be dated and signed. I am not the grantor's current health care provider, a relative of the current health care provider, or an owner, operator, employee or relative of an owner or operator of a health facility in which the grantor is a client or resident.

Signatures of witnesses: _____

 Surrogate contact information (if designated):

Name: _____

Address: _____

 Telephone: _____

Signed this ____ day of _____, 20__

Signature of surrogate: _____

Alternate surrogate contact information (if designated):

Name: _____

Address: _____

 Telephone _____

Signed this ____ day of _____, 20__

Signature of alternate surrogate: _____ "

SECTION 7. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

Sections 1 to 7 of this Act may be cited as the Kentucky Advance Directive for Mental Health Act.

Approved April 3, 2003

CHAPTER 191

(HB 157)

AN ACT relating to financial administration.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

- (1) *In addition to any payment method authorized by law, and notwithstanding any statute to the contrary, any state agency may accept the following methods of payment to secure funds for deposit into the State Treasury:*
- (a) *Credit card;*
 - (b) *Debit card;*
 - (c) *Electronic check;*
 - (d) *Automated clearinghouse (ACH) debit; or*
 - (e) *Any other electronic payment method upon the prior written approval of both the Finance and Administration Cabinet and the Office of the State Treasurer.*

- (2) *Any fees charged to a state agency by the provider of the payment services listed in subsection (1) of this section shall be deemed to represent collection expenses and may be considered normal operating expenses of the agency; or, the agency may collect convenience fees from users to supplement agency costs of delivering services.*

Approved April 3, 2003

CHAPTER 192

(HB 158)

AN ACT relating to county finances.

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

Section 1. KRS 64.345 is amended to read as follows:

- (1) The county clerk and sheriff of each county having a population of seventy thousand (70,000) or over shall receive an annual salary pursuant to the salary schedule in KRS 64.5275.
- (2) In counties containing a city of the first class, an urban-county form of government, or a consolidated local government, the amount, if any, allowed for the necessary office expenses of each officer shall be approved by the fiscal court in counties containing a city of the first class, by the legislative body in counties containing an urban-county form of government, or by the legislative council in a consolidated local government. This approval shall be signed by the county judge/executive in a county containing a city of the first class, the executive authority in a county having an urban-county form of government, or the mayor in a consolidated local government. Approval by the fiscal court, urban-county legislative body, or legislative council of a consolidated local government under this subsection shall not include oversight of expenditure of the funds. This oversight shall be retained by the Office of the Controller created pursuant to KRS 42.0201. In counties having a consolidated local government or containing a city of the first class, each sheriff's deputy who uses his own automobile in the performance of official duties shall be authorized an allotment for expenses incurred, up to a maximum of three hundred dollars (\$300) per month, to be paid out of the fees and commissions of the sheriff's office. In all other counties with a population of seventy thousand (70,000) or more, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the Finance and Administration Cabinet.
- (3) Each officer shall, on the first day of each month, send to the Finance and Administration Cabinet a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month as fees or compensation for official duties and shall, with these statements, send to the Finance and Administration Cabinet the amount so collected or received. The Finance and Administration Cabinet may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.
- (4) The salary of each officer and his deputies and assistants and his office expenses shall be paid semimonthly by the State Treasurer upon the warrant of the Finance and Administration Cabinet made payable to the officer. If seventy-five percent (75%) of the amount paid into the State Treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the Finance and Administration Cabinet to any officer for salaries and expenses exceed seventy-five percent (75%) of the amount paid to the Finance and Administration Cabinet by the officer during his official term.
- (5) In counties containing a city of the first class, an urban-county form of government, or a consolidated local government, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be approved at reasonable amounts upon motion of each officer by the fiscal court in counties containing a city of the first class, by the legislative council in a consolidated local government, and by the legislative body in counties containing an urban-county form of government. This approval shall be signed by the county judge/executive in a county containing a city of the first class, the executive authority in a county having an urban-county form of government, or the mayor in a consolidated local government. Approval by the fiscal court, urban-county legislative body, or legislative council of a

consolidated local government under this subsection shall not include oversight of expenditure of the funds. This oversight shall be retained by the Office of the Controller. In all other counties with a population of seventy thousand (70,000) or more, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the Finance and Administration Cabinet.

- (6) If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of KRS 64.368 shall apply.
- (7) *The Office of the Controller shall recognize the amount allowed for necessary office expenses of each officer under subsection (2) of this section as the official budget for the office. The Office of the Controller shall use professional judgment in creating the appropriate fund and account structure to ensure that the offices do not exceed annual approved budgetary amounts or expend more than the resources available for the term of office.*

Approved April 3, 2003

CHAPTER 193

(HB 183)

AN ACT relating to mandated health insurance benefits.

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

Section 1. KRS 6.948 is amended to read as follows:

- (1) For purposes of this section, "mandated health benefit" means any requirement that any health benefit plan, *as defined in KRS 304.17A-005:*
 - (a) Provide a specified benefit;~~;~~
 - (b) Include a specified coverage;~~;~~
 - (c) Pay, indemnify, or reimburse for a specified medical service;~~;~~ or
 - (d) *Pay, indemnify, or reimburse*~~impose or regulate provisions concerning~~ specified health care providers *for specific health care services.*
- (2)
 - (a) On and after *the effective date of this Act*~~April 10, 1998~~, in the General Assembly, a sponsor of a bill ~~or and any member proposing~~ an amendment~~to a bill~~ that contains a mandated health benefit shall ~~cause~~~~submit to the standing committee to which the bill has been referred~~ a financial impact statement *to be prepared and attached to the measure*~~on health insurance coverage rates~~ before final consideration by the *standing committee to which the measure has been referred.*
 - (b) *A bill in the orders of the day in the House or the Senate which does not have attached a financial impact statement as required by this section shall be retained in the orders of the day but passed over in the orders of the day until the financial impact statement is attached. Members may require, by a majority vote, that a financial impact statement be prepared on any bill and on any amendment in the orders of the day. Any member proposing an amendment from the floor which contains a mandated health benefit shall cause a financial impact statement to be prepared and attached to the amendment. Until the time a financial impact statement is prepared and attached to an amendment that contains a mandated health benefit, action on the proposed amendment shall not be in order.*
- (3) *The financial impact statement shall be prepared by the Department of Insurance as provided in subsection (6) of this section.*
- (4) *The sponsor of a bill or amendment that contains a mandated health benefit shall request the Department of Insurance, as soon as practicable, to prepare a financial impact statement. If the sponsor submits a request prior to filing the measure with the clerk of the House or Senate, the department shall keep the measure confidential until the sponsor authorizes public distribution. The department shall keep all financial impact statements and all requests for statements confidential until the person requesting the financial impact statement authorizes public distribution.*

- (5) ~~A majority of the members present at a meeting of any~~~~[Upon request of a]~~ standing committee of the General Assembly, ~~acting through the committee chair, may request the commissioner of the Department of Insurance to prepare a~~~~[shall review any]~~ financial impact statement ~~for any measure before~~~~[filed with]~~ the committee and ~~submit the statement in accordance with subsection (6) of this section~~~~[report the results of the review to the committee]~~.
- (6) (a) *The financial impact statement shall be in writing and signed by the commissioner of the Department of Insurance or the commissioner's designee and shall determine the extent to which:*
1. *The mandated health benefit will increase or decrease the administrative expenses of insurers;*
 2. *The mandated health benefit will increase or decrease premiums; and*
 3. *The mandated health benefit will impact the total cost of health care in the Commonwealth, including any potential cost savings that may be realized.*
- (b) 1. *If the sponsor of a bill that contains a mandated health benefit submits the request for a financial impact statement prior to filing the bill, the financial impact statement shall be completed as soon as possible, but no later than thirty (30) days after the request by the sponsor, unless the sponsor and the commissioner of the Department of Insurance agree otherwise.*
2. *The financial impact statement shall be completed as soon as possible, but no later than thirty (30) days after the request by the sponsor of a measure before a standing committee under subsection (2) of this section or by the committee chair under subsection (5) of this section.*
 3. *The financial impact statement shall be completed as soon as possible after the request by a majority vote of the House or Senate or by the sponsor of a floor amendment pursuant to subsection (2)(b) of this section.*

Approved April 3, 2003

CHAPTER 194

(HB 390)

AN ACT relating to Title XI of the Kentucky Revised Statutes, making an appropriation therefor, and declaring an emergency.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

As used in this section and Sections 1 to 14 of this Act:

- (1) *"Brand family" means all styles of cigarettes sold under the same trade mark and differentiated from one another by means of additional modifiers or descriptors, including but not limited to menthol, lights, kings, and 100's, and includes any brand name alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.*
- (2) *"Distributor" means a person, wherever residing or located, who purchases nontax-paid cigarettes and stores, sells, or otherwise disposes of the cigarettes. This includes resident wholesalers, nonresident wholesalers, and unclassified acquirers as defined in KRS 138.130.*
- (3) *"Nonparticipating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.*
- (4) *"Participating manufacturer" has the meaning given the term in Section II(jj) of the master settlement agreement and all amendments thereto.*
- (5) *"Stamping agent" means a person, including a distributor, that is authorized to affix tax stamps to packages or other containers or cigarettes pursuant to KRS 138.146 or any person that is required to pay the excise tax imposed pursuant to KRS 138. 155.*

- (6) *"Master settlement agreement" has the same meaning as in KRS 131.600.*
- (7) *"Cigarette" has the same meaning as in KRS 131.600.*
- (8) *"Secretary" means the secretary of the Revenue Cabinet.*
- (9) *"Cabinet" means the Revenue Cabinet.*
- (10) *"Tobacco product manufacturer" has the same meaning as in KRS 131.600.*
- (11) *"Units sold" has the same meaning as in KRS 131.600.*
- (12) *"Qualified escrow fund" has the same meaning as in KRS 131.600.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that violations of KRS 131.600 and 131.602 threaten the integrity of the tobacco master settlement agreement, the fiscal soundness of the state, and the public health. The legislature finds that enacting procedural enhancements will aid enforcement of KRS 131.600 and 131.602 and thereby safeguard the master settlement agreement, the fiscal soundness of the state, and the public health.

SECTION 3. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

- (1) *Prior to selling cigarettes in Kentucky, directly or through a distributor, retailer, or similar intermediary or intermediaries, every tobacco product manufacturer shall certify as true under penalty of perjury that, as of the date of certification, the tobacco product manufacturer is a participating manufacturer or nonparticipating manufacturer in full compliance with the provisions of KRS 131.602 and Section 9 of this Act. The tobacco product manufacturer shall execute and deliver the certification to the Attorney General on a form prescribed by the Attorney General no later than April 30 of each year.*
- (2) *A participating manufacturer shall include in its certification a list of its brand families. The participating manufacturer shall update the list thirty (30) calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the Attorney General.*
- (3) *A nonparticipating manufacturer shall include in its certification a complete list of all of its brand families and provide the following:*
 - (a) *A separate list of its brand families of cigarettes and the number of units sold for each brand family that were sold in Kentucky during the preceding calendar year; and*
 - (b) *A separate list of all of its brand families that have been sold in Kentucky at any time during the current calendar year including:*
 - 1. *Indicating by an asterisk any brand family sold in Kentucky during the preceding calendar year that is no longer being sold in Kentucky as of the date of the certification; and*
 - 2. *Identifying by name and address any other manufacturer of such brand families in the preceding or current calendar year.*
 - (c) *Verification that the nonparticipating manufacturer has provided the following:*
 - 1. *The name, address, and telephone number of the financial institution where the nonparticipating manufacturer has established a qualified escrow fund required under KRS 131.602 and all regulations promulgated thereunder.*
 - 2. *The account number of the qualified escrow fund and any subaccount number for the state of Kentucky.*
 - 3. *The amount the nonparticipating manufacturer placed in the fund for cigarettes sold in Kentucky during the preceding calendar year, the date and amount of each deposit and evidence or verification, as may be deemed necessary, by the Attorney General to confirm the foregoing.*
 - 4. *The amount and date of any withdrawal or transfer of funds the nonparticipating manufacturer made at any time from the fund or from any other qualified escrow fund into which it ever made escrow payments pursuant to KRS 131. 602 and all administrative regulations promulgated thereto.*
- (4) *In the case of a nonparticipating manufacturer, the certification shall further certify:*

- (a) *That the nonparticipating manufacturer is registered to do business in Kentucky or has appointed a resident agent for service of process and provided notice as required by Section 6 of this Act.*
- (b) *That the nonparticipating manufacturer has established and continues to maintain a qualified escrow fund pursuant to KRS 131.602 and has executed a qualified escrow agreement that governs the qualified escrow fund and that has been reviewed and approved by the Attorney General.*
- (c) *That the nonparticipating manufacturer is in full compliance with KRS 131.602, Sections 1 to 14 of this Act, and any administrative regulations promulgated pursuant thereto.*
- (5) *A tobacco product manufacturer may not include a brand family in its certification unless:*
 - (a) *In the case of a participating manufacturer, the participating manufacturer affirms that the brand family is to be deemed to be its cigarettes for purposes of calculating its payments under the master settlement agreement for the relevant year, in the volume and shares determined pursuant to the master settlement agreement.*
 - (b) *In the case of a nonparticipating manufacturer, the nonparticipating manufacturer affirms that the brand family is to be deemed to be its cigarettes pursuant to KRS 131.602.*
- (6) *The nonparticipating manufacturer shall update all lists thirty (30) calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the Attorney General.*
- (7) *Nothing in this section shall be construed as limiting or otherwise affecting the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the master settlement agreement or for purposes of KRS 131.602.*
- (8) *The tobacco product manufacturers shall maintain all invoices and documentation of sales and other information relied upon for a certification for a period of five (5) years.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

- (1) *The Attorney General shall develop and make available to the cabinet for public inspection, to include publishing on the cabinet's website, a listing of all tobacco product manufacturers that have provided current and accurate certifications pursuant to Section 3 of this Act and all brand families that are listed in the certifications. The listing shall be referred to as the "directory" and completed no later than July 1 of each certification year.*
- (2) *The cabinet shall not include or retain in the directory the name or brand families of any nonparticipating manufacturer that has failed to provide the required certification or whose certification the Attorney General determines is not in compliance with Section 3 of this Act, unless the Attorney General has determined that such violation has been satisfactorily cured.*
- (3) *Neither a tobacco product manufacturer nor a brand family shall be included or retained in the directory if the Attorney General determines in the case of a nonparticipating manufacturer that:*
 - (a) *Any escrow payment required pursuant to KRS 131.602 for any period for any brand family, whether or not listed by the nonparticipating manufacturer, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the Attorney General; or*
 - (b) *Any outstanding final judgments, including interest thereon, for a violation of KRS 131.602 has not been fully satisfied for the brand family or the manufacturer.*
- (4) *Upon receipt of information from the Attorney General, the cabinet shall update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand family to keep the directory in conformity with the requirements of this section and Sections 3 and 9 of this Act. The cabinet shall transmit, by electronic mail or other practicable means, notice to each stamping agent and distributor of any addition to or removal from the directory of any tobacco product manufacturer or brand family.*
- (5) *Every stamping agent and distributor shall provide and update as necessary an electronic mail address to the cabinet for the purpose of receiving any notifications that may be required by this section and Sections 3, 7, 9, and 11 of this Act.*

- (6) *Notwithstanding the provisions of subsections (2) and (3) of this section, in the case of any nonparticipating manufacturer who has established a qualified escrow account pursuant to KRS 131.602 that has been approved by the Attorney General, the Attorney General may not remove the manufacturer or its brand families from the directory unless the manufacturer has been given at least thirty (30) days' notice of the intended action. For the purposes of this section, notice shall be deemed sufficient if it is sent either electronically to an electronic-mail address or by first class to a postal mailing address, provided by the manufacturer in its most recent certification filed pursuant to Section 3. The notified nonparticipating manufacturer shall have thirty (30) days from receipt of the notice to comply. At the time that the Attorney General sends notice of its intent to remove the manufacturer from the directory the Attorney General shall post the notice in the directory.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

It shall be unlawful for any stamping agent or distributor to affix a stamp to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory.

SECTION 6. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

- (1) *Any nonresident or foreign nonparticipating manufacturer that has not registered to do business in the state as a foreign corporation or business entity shall, as a condition precedent to having its brand families included or retained in the directory, appoint and continually engage without interruption the services of an agent in this state to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of KRS 131.602 and Sections 1 to 14 of this Act, may be served in any manner authorized by law. The service shall constitute legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide the name, address, phone number and proof of the appointment and availability of the agent to the Attorney General.*
- (2) *The nonparticipating manufacturer shall provide notice to the Attorney General thirty (30) calendar days prior to termination of the authority of an agent and shall further provide proof of the appointment of a new agent no less than five (5) calendar days prior to the termination of an existing agent appointment. If an agent terminates an agency appointment, the nonparticipating manufacturer shall notify the secretary and the Attorney General of the termination within five (5) calendar days and shall include proof of the appointment of a new agent.*
- (3) *Any nonparticipating manufacturer whose products are sold in this state without appointing or designating an agent as required by this section shall be deemed to have appointed the Secretary of State as its agent and may be proceeded against in courts of this state by service of process upon the Secretary of State. The appointment of the Secretary of State as its agent shall not satisfy the condition precedent to having its brand families listed or retained in the directory.*
- (4) *The Attorney General may by administrative regulation establish criteria for validating the appointment of an agent for the purposes of this section.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

On or before the twentieth day of each month, each stamping agent and distributor shall submit documentation that the secretary requires to facilitate compliance with this section, including but not limited to a list by brand family of the total number of cigarettes for which the stamping agent or distributor affixed stamps during the previous calendar month or otherwise paid the tax due for the cigarettes. The stamping agent or distributor shall maintain, and make available to the secretary, all invoices and documentation of sales of all nonparticipating manufacturer cigarettes and any other information relied upon in reporting to the secretary for a period of five (5) years.

SECTION 8. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding KRS 131.190, the secretary is authorized to disclose to the Attorney General the name and address of a stamping agent or distributor and the number of sticks by brand name that have been purchased from a nonparticipating manufacturer and have been stamped with Kentucky stamps by that agent or distributor. The Attorney General may share this information with other federal, state, or local agencies only for the purposes of enforcement of KRS 131.602 and Sections 1 to 14 of this Act or corresponding laws of other states. The Attorney General is further authorized to disclose to a nonparticipating tobacco product manufacturer this information that has been provided by a stamping*

agent regarding the purchases from that manufacturer. This information provided by a stamping agent may be used in any enforcement action against the nonparticipating manufacturer by the Attorney General.

- (2) *In addition to the information required to be submitted pursuant to Sections 3, 6, and 9 of this Act, the Attorney General or the secretary may require a stamping agent, distributor, or tobacco product manufacturer to submit any additional information including but not limited to samples of the packaging or labeling of each brand family as is necessary to enable the Attorney General to determine whether a tobacco product manufacturer is in compliance with Sections 1 to 14 of this Act.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

The Attorney General may, at any time, require from the nonparticipating manufacturer proof from the financial institution in which the manufacturer has established a qualified escrow fund, for the purpose of compliance with KRS 131.600 and 131.602, of the amount of money in the fund, exclusive of interest, the amount and date of each deposit to the fund, and the amount and date of each withdrawal from the fund.

SECTION 10. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

- (1) *Any cigarettes that have been affixed with a stamp in this state in violation of Section 5 of this Act shall be deemed contraband and subject to seizure and forfeiture pursuant to KRS 138.165. Cigarettes seized in accordance with this section shall be destroyed and not resold.*
- (2) *The Attorney General may seek an injunction to restrain a violation of Section 5 or 7 of this Act by a distributor or stamping agent and to compel the distributor or stamping agent to comply with Sections 5 and 7 of this Act. In any action brought pursuant to this section, the state shall be entitled to recover the costs of investigation, costs of the action, and reasonable attorney fees from any distributor or stamping agent found to be in violation of Section 5 or 7 of this Act.*
- (3) *No stamping agent or distributor shall sell or distribute cigarettes, or acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the stamping agent knows are intended for distribution or sale in the state in violation of Section 5 of this Act. A violation of this section is a class A misdemeanor.*
- (4) *Nothing in this section shall prohibit a stamping agent or distributor from possessing unstamped containers of cigarettes held in inventory for delivery to, or for sale in, another state.*
- (5) *In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamping agent or distributor has violated Section 5 of this Act or any regulation adopted pursuant to Sections 1 to 14 of this Act, the secretary may suspend the sale of cigarette stamps to the stamping agent or distributor for failure to comply with the provisions of Sections 1 to 14 of this Act.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

- (1) *Any person aggrieved by a determination of the Attorney General to not include or to remove from the directory created in Section 4 of this Act a brand family or tobacco product manufacturer may appeal the determination to the Franklin Circuit Court, or to the Circuit Court of the county in which the aggrieved party resides or conducts his place of business. For the purposes of a temporary injunction sought pursuant to this subsection, loss of the ability to sell tobacco products as a result of removal from the directory may be deemed to constitute irreparable harm.*
- (2) *No person shall be issued a license or granted a renewal of a license to act as a distributor or stamping agent unless the person is in compliance with the provisions of Sections 1 to 14 of this Act.*
- (3) *The Attorney General or the cabinet may promulgate administrative regulations necessary to effect the purposes of Sections 1 to 14 of this Act.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

- (1) *In any action brought by the state to enforce Sections 1 to 14 of this Act, the state shall be entitled to recover the costs of investigation, expert witness fees, costs of the action, and reasonable attorney fees from any entity or person found to be in violation of Sections 1 to 14 of this Act.*
- (2) *If a court determines that a person has violated Sections 1 to 14 of this Act, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be relinquished and paid to the State Treasurer for deposit in the Tobacco Control Special Fund, which is hereby created. Moneys in the fund shall be used for the sole purpose of enforcement of Sections 1 to 14 of this Act. Unless otherwise expressly*

provided, the remedies or penalties provided by Sections 1 to 14 of this Act are cumulative to each other and to the remedies or penalties available under all other laws of this state.

SECTION 13. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of KRS 131.600, 131.602, or Sections 1 to 14 of this Act causes KRS 131.600 and 131.602 to no longer constitute a model statute, as it is set out in Exhibit T to the master settlement agreement, then that portion of KRS 131.600, 131.602, or Sections 1 to 14 of this Act shall not be valid.

SECTION 14. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

- (1) *In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamping agent or distributor has violated any provision of Sections 1 to 14 of this Act or any administrative regulation promulgated thereunder, the secretary may revoke or suspend the license of any stamping agent or distributor pursuant to KRS 138.195 and 138.205.*
- (2) *Each stamp affixed in violation of Section 5 of this Act shall constitute a separate violation. The secretary may impose a civil penalty in an amount not to exceed the greater of five hundred percent (500%) of the retail value of the cigarettes sold or five thousand dollars (\$5,000) upon a determination of a violation of Section 5 of this Act or any administrative regulations promulgated thereunder. The penalty shall be imposed in the manner provided by KRS 138.195 and 138.205.*

~~[SECTION 15. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:~~

- ~~(1) Notwithstanding KRS 136.070, a corporation that holds directly or indirectly stock or securities in other corporations equal to or greater than fifty percent (50%) of its total assets may, at the option of the taxpayer, compute capital employed in the business using one of the following options:~~
 - ~~(a) The corporation and its subsidiaries may file a consolidated license tax return which computes capital employed by the business under KRS 136.070(2) and (3) and includes the parent corporation and all subsidiary corporations in which the parent corporation owns more than fifty percent (50%) of the outstanding stock. The consolidated capital of the parent corporation and its subsidiaries shall be increased by an amount equal to ten percent (10%) of the difference between the total capital employed as apportioned to Kentucky if the parent corporation and each taxable subsidiary filed a separate license tax return, and the total capital apportioned to Kentucky computed on a consolidated basis; or~~
 - ~~(b) The corporation may file a separate license tax return and deduct from its capital, determined in accordance with KRS 136.070(2), the book value of its investment in the stock and securities of any corporation in which it owes more than fifty percent (50%) of the outstanding stock. The capital of the corporation shall be increased by an amount equal to ten percent (10%) of the difference between total capital apportioned to Kentucky without the deduction provided by this paragraph, and the total capital apportioned to Kentucky computed with the deduction provided by this paragraph.~~
- ~~(2) For purposes of determining the ratio of stock and securities to total assets, the value shall be the value of the accounts as reflected on financial statements prepared for book purposes as of the last day of the calendar or fiscal year. The term "stock and securities" as used in this section means shares of stock in any corporation, certificates of stock or interest in any corporation, notes, bonds, debentures, and evidences of indebtedness. The term "book value" means the value as shown on financial statements prepared for book purposes as of the last day of the calendar or fiscal year.]~~

Section 16. For the year 2003, the certifications by a tobacco product manufacturer described in Section 3 of this Act shall be due forty-five (45) calendar days after the effective date; and the directory described in Section 4 of this Act shall be published or made available within ninety (90) calendar days after such effective date.

Section 17. There is appropriated to the Revenue Cabinet, before making distributions from the tobacco settlement agreement fund pursuant to KRS 248.654, for each year of the 2002-2004 biennium, and notwithstanding the temporary emergency expenditures of state funds in Executive Order 2002-727, one hundred seventy-five thousand (\$175,000) dollars to carry out the provisions of KRS 131.600, 131.602, and Sections 1 to 14 of this Act.

~~[Section 18. The provisions of Section 15 of this Act shall be effective for tax periods for which a corporation license tax return is due, without regard to extension, on or after April 15, 2004. The provisions of Section 15 of this Act shall not apply to any tax period for which a corporation license tax return is due, without regard to extension, on or after April 15, 2005.]~~

~~Section 19. The following KRS section is repealed:~~

~~136.071 Corporation license tax — Apportionment of capital when corporation holds stock in other corporations.~~

Section 20. Whereas the General Assembly is dedicated to protecting Kentucky's receipt of funds under the Master Settlement Agreement, an emergency is declared to exist, and the provisions of Sections 1 through 14 and Sections 16 and 17 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Legislative Research Commission Note (5/1/2003). Bracketed material within this bill represents text vetoed by the Governor on April 3, 2003.

Vetoed in part, April 3, 2003. Became law April 6, 2003, without Governor's signature.