

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~~ 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~~[or tests]~~ 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;
 - ~~(f)~~ ~~(g)~~ The chairman of the Board for the Kentucky Higher Education Assistance Authority; and
 - ~~(g)~~ ~~(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 sections 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