CHAPTER 85

(SB 49)

AN ACT relating to the executive branch of state government.

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

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

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

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

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

(g)~~[(h)]~~ Kentucky Craft Marketing Program.

(h)~~[(i)]~~ Kentucky Commission on the Deaf and Hard of Hearing.

(i)~~[(j)]~~ Governor's Scholars Program.

(j)~~[(k)]~~ Governor's School for the Arts.

(k)~~[(l)]~~Operations and Development Office.

(l)~~[(m)]~~ Kentucky Heritage Council.

(m)~~[(n)]~~ Kentucky African-American Heritage Commission.

(n)~~[(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) Department for Regional Development.

(f) Tobacco Research Board.

(g) Kentucky Economic Development Finance Authority.

6. Environmental and Public Protection 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 Horse Racing Authority.

(i) Board of Claims.

(j) Crime Victims Compensation Board.

(k) Kentucky Board of Tax Appeals.

(l) Office of Petroleum Storage Tank Environmental Assurance Fund.

(m) Department of Charitable Gaming.

(n) 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 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 the Inspector General.

(i) Office of Aging Services.

9. Finance and Administration Cabinet:

(a) Office of *General Counsel*~~[Financial Management]~~.

(b) Office of the Controller.

(c) *Office of Administrative Services*~~[Department for Administration]~~.

(d) *Office of Public Information*~~[Department of Facilities Management]~~.

(e) *Department for Facilities and Support Services.*

(f) Department of Revenue.

(g) Commonwealth Office of Technology.

(h) State Property and Buildings Commission.

~~[(f) Kentucky Pollution Abatement Authority.]~~

(i)~~[(g)]~~ Kentucky Savings Bond Authority.

~~[(h) Deferred Compensation Systems.]~~

(j)~~[(i)]~~ Office of Equal Employment Opportunity *and* 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.]~~

(p)~~[(q)]~~ Kentucky Local Correctional Facilities Construction Authority.

(q)~~[(r)]~~ Kentucky Turnpike Authority.

(r)~~[(s)]~~ Historic Properties Advisory Commission.

(s)~~[(t)]~~Kentucky Tobacco Settlement Trust Corporation.

(t)~~[(u)]~~ Eastern Kentucky Exposition Center Corporation.

(u)~~[(v)]~~ State Board for Proprietary Education.

(v) Kentucky Higher Education Assistance Authority.

(w) Kentucky River Authority.

(x) Kentucky Teachers' Retirement System Board of Trustees.

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.

12.~~[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.

(g) The Foundation for Adult Education.

(h) Department for Training and Reemployment.

(i) Office of General Counsel.

(j) Office of Communication Services.

(k) Office of Workforce Partnerships.

(l) Office of Workforce Analysis and Research.

(m) Office of Budget and Administrative Services.

(n) Office of Technology Services.

(o) Office of Quality and Human Resources.

(p) Unemployment Insurance Commission.

13.~~[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.

9.~~[10.]~~Education Professional Standards Board.

Section 2. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on Postsecondary Education;

(2) Department of Military Affairs;

(3) Department for Local Government;

(4) Kentucky Commission on Human Rights;

(5) Kentucky Commission on Women;

(6) Kentucky Commission on Military Affairs;

(7) Kentucky Coal Council;

(8) Governor's Office of Child Abuse and Domestic Violence Services;

(9) ~~[Governor's Office for Technology;~~

~~(10)]~~ Office of Coal Marketing and Export;

(10)~~[(11)]~~ Agricultural Development Board;

(11)~~[(12)]~~ Commission on Small Business Advocacy;

(12)~~[(13)]~~ Office of Early Childhood Development;

(13)~~[(14)]~~ Kentucky Agency for Substance Abuse Policy;

(14)~~[(15)]~~ Education Professional Standards Board; and

(15)~~[(16)]~~ Kentucky Agricultural Finance Corporation.

Section 3. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

(1) Justice Cabinet.

(2) Education, Arts, and Humanities Cabinet.

(3) Natural Resources and Environmental Protection Cabinet.

(4) Transportation Cabinet.

(5) Cabinet for Economic Development.

(6) Public Protection and Regulation Cabinet.

(7) Cabinet for Health Services.

(8) Cabinet for Families and Children.

(9) Finance and Administration Cabinet.

(10) Tourism Development Cabinet.

(11) ~~[Revenue Cabinet.~~

~~(12)]~~ Labor Cabinet.

(12)~~[(13)]~~ Cabinet for Workforce Development.

(13)~~[(14)]~~ Personnel Cabinet.

Section 4. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice Cabinet, the Education, Arts, and Humanities Cabinet, the Natural Resources and Environmental Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Public Protection and Regulation Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, the Finance and Administration Cabinet, ~~[the Revenue Cabinet,]~~the Tourism Development Cabinet, the Labor Cabinet, the Personnel Cabinet, the Governor's Executive Cabinet, the state budget director, the Governor's chief of staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.

(3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 5. KRS 42.014 is amended to read as follows:

(1) There is established within the cabinet the*:*

(a) Office of *the secretary;*

(b) *Commonwealth Office of Technology*~~[Financial Management, the Office of Capital Plaza Operations]~~, and the Office of the Controller, each of which shall be headed by an executive director *appointed by the secretary with the approval of the Governor; and*

(c) ~~[, the]~~Department *of Revenue*~~[for Administration,]~~ and the Department for Facilities *and Support Services*~~[Management]~~, each of which shall be headed by a commissioner appointed by the secretary, upon the approval of the Governor, and responsible to the secretary. Each of these departments may have at least one (1) major assistant not in the classified service.

(2) The secretary shall establish the internal organization and assignment of functions which are not established by statute, and shall divide the cabinet into the offices, bureaus, divisions, or other units the secretary deems necessary to perform the functions, powers, and duties of the cabinet, subject to the provisions of KRS Chapter 12.

(3) All appointments under this chapter to positions not in the classified service shall be made pursuant to KRS 12.050, and such appointees shall be major assistants to the secretary and shall assist in the development of policy.

Section 6. KRS 42.013 is repealed and reenacted as KRS 42.0145 and amended to read as follows:

(1) The office of the secretary of the Finance and Administration Cabinet *shall consist of the Office of General Counsel, Office of Administrative Services, Office of Public Information, and Office of Equal Employment Opportunity and Contract Compliance, each headed by an executive director who shall be appointed by the secretary with the approval of the Governor. The office of the secretary* shall include a deputy secretary who shall be appointed by the secretary with the approval of the Governor. The deputy secretary shall be responsible to and have such authority to sign for the secretary as the secretary designates in writing.

(2) The secretary may organize the office into such additional administrative units as he deems necessary to perform the functions and fulfill the duties of the cabinet, subject to the provisions of KRS Chapter 12.~~[The Office of the Secretary shall include the Office of Technology Operations, the Office of Legal and Legislative Services, the Office of Management and Budget, the Customer Resource Center, and the Administrative Policy and Audit Division.]~~

(3) All appointments under this chapter to positions not in the classified service shall be made pursuant to KRS 12.050, and such appointees shall be major assistants to the secretary and shall assist in the development of policy.

SECTION 7. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

The Office of Public Information, in close communication with the secretary, shall oversee all publication information issues, manage requests for information, prepare press releases, respond to press inquiries, and coordinate the publication of newsletters, reports, Web site information, and other statewide communications of the cabinet.

Section 8. KRS 42.017 is amended to read as follows:

(1) The Office of *General Counsel*~~[Legal and Legislative Services]~~ established within the Office of the Secretary by *Section 6 of this Act*~~[KRS 42.013]~~ shall be ~~[generally]~~responsible for *the coordination and provision of legal services for the cabinet and for other*~~[such]~~ functions and duties as the secretary may assign relating to the performance of the cabinet's legal services~~[and legislative liaison functions]~~.

(2) ~~[There shall be included within]~~The Office of *General Counsel shall be headed by an executive director who shall function as the*~~[Legal and Legislative Services a]~~ general counsel. *The executive director shall be appointed in accordance with*~~[, whose appointment shall be made pursuant to]~~ KRS 12.210 *and*~~[, who]~~ shall report to the secretary~~[through the head of the Office of Legal and Legislative Services]~~. The Attorney General, on request of the secretary, may designate attorneys in the Office of *General Counsel*~~[Legal and Legislative Services]~~ as assistant attorneys general as provided in KRS 15.105.

(3) The Office of General Counsel shall consist of two (2) offices, each of which shall provide legal services for its respective offices and departments, as follows:

(a) Office of Legal Services for Finance and Technology, headed by an executive director and composed of organizational entities deemed appropriate by the secretary of the Finance and Administration Cabinet; and

(b) Office of Legal Services for Revenue, headed by an executive director, including the Division of Protest Resolution and any additional organizational entities deemed appropriate by the secretary of the Finance and Administration Cabinet.

Section 9. KRS 42.023 is repealed and reenacted as KRS 42.0171 and amended to read as follows:

(1) The *Office of Administrative Services established in Section 6 of this Act*~~[Department for Administration of the cabinet established by KRS 42.014]~~ shall be generally responsible for *all internal administrative and human resource functions of the cabinet, including but not limited to providing administrative assistance; managing and preparing the cabinet's budget; performing general accounting; managing fiscal, personnel, and payroll functions of the cabinet; providing statewide postal and printing services; providing administrative support to boards and commissions; and performing* any *additional administrative* functions and duties the secretary may assign~~[relating, but not limited to, supervision of purchasing and store keeping, control of stores, control of personal property and disposition of surplus personal property, printing and reproductions, state forms, postal services, and technical assistance and advice to state agencies]~~.

(2) There shall be established in the *Office of Administrative Services the Division of Budget and Planning, the Division of Human Resources, the Division of Administrative Support Services, the Division of Occupations and Professions, the Division of Postal Services, and the Division of Printing Services*~~[Department for Administration a Division of Material and Procurement Services, a Division of Surplus Property, a Division of Printing, a Division of Risk Management, a Division of Creative Services, a Division of Occupations and Professions, and a Division of Postal Services]~~, each of which shall be headed by a *division* director appointed by the *secretary of the Finance and Administration Cabinet*~~[commissioner]~~, subject to the approval of the Governor, and who shall be responsible to the *executive director of the Office of Administrative Services*~~[commissioner]~~. There may be, if needed, sections assigned to specific areas of work, responsible directly to the *executive director of the Office of Administrative Services*~~[commissioner for administration]~~.

Section 10. KRS 42.025 is repealed and reenacted as KRS 42.0172 and amended to read as follows:

(1) The Division of Printing *Services* shall be responsible for the printing and duplicating needs of state agencies, as designated by the Finance and Administration Cabinet.

(2) The Division of Postal Services shall operate the centralized postal services for executive branch agencies as set forth in KRS 12.020. The division shall operate at a central location with additional locations necessary to maintain and improve service levels.

Section 11. KRS 42.0201 is amended to read as follows:

(1) There is created within the Finance and Administration Cabinet the Office of the Controller. ~~[The office shall be attached to the Office of the Secretary of the Finance and Administration Cabinet for administrative and reporting purposes.]~~

(2) The Office of the Controller shall be headed by an executive director appointed by the secretary of the Finance and Administration Cabinet with the approval of the Governor. The executive director shall function as the state controller, who shall be a person qualified by education and experience for the position and held in high professional esteem in the accounting community.

(3) The state controller shall be the Commonwealth's chief accounting officer and shall be responsible for all aspects of accounting policies and procedures, financial accounting systems, and internal accounting control policies and procedures. The Office of the Controller shall establish guidelines for state personnel administration on issues relating to paycheck distribution dates, assignment of data elements to accurately report labor costs, assignment and tracking of actual expenditures by code, and coverage issues relating to Social Security and Medicare.

(4) The state controller; the executive director of the Office of Financial Management, Finance and Administration Cabinet; and the state budget director designated under KRS 11.068 shall develop and maintain the Commonwealth's strategic financial management program.

(5) *Executive directors and division directors appointed under this section shall be appointed by the secretary with the approval of the Governor.*

(6) There are established in the Office of the Controller the *following organizational entities:* ~~[Division of Statewide Accounting Services and the Division of Social Security.]~~

(a) *The Office of Policy and Audit, which shall be headed by an executive director and shall have the duties and responsibilities established in Section 13 and Section 14 of this Act;*

(b) The Office of Financial Management, which shall be headed by an executive director and shall have the duties and responsibilities established in Section 16 of this Act;

(c) The Office of Material and Procurement Services, which shall be headed by an executive director and shall have the duties established in Section 12 of this Act;

(d) The Office of Customer Resource Center, which shall be headed by an executive director and shall be responsible for providing a help desk for users of state government's financial and procurement system, including state employee users and vendors and payees of the Commonwealth who do, or would like to do, business with the state; training state employees in the use of state government's financial and procurement system; and assisting cabinet entities in improving the quality of their products and processes;

(e) The Division of Local Government Services, which shall be headed by a division director and shall be responsible for:

1. Providing property valuation administrators with fiscal, personnel, payroll, training, and other essential administrative support services;

2. Overseeing Kentucky's Social Security coverage program, including but not limited to all aspects of FICA wage reporting for state government and the Commonwealth's Social Security coverage agreement;

3. Serving as liaison between local governments and the federal Internal Revenue Service and Social Security Administration;

4. Serving as the payroll and fiscal officer for the sheriff and clerk in counties over seventy thousand (70,000) in population, disbursing various reimbursements and expenditures to local governments and serving as liaison and conduit for all court fees associated with report of state money through the Circuit Courts;

5. Directing the federal employment tax program for state employees; and

6. Performing state government's duties relating to the county fee system for local entities;

(f) The Division of Statewide Accounting Services, *headed by a division director*~~[shall be headed by a director]~~ appointed by the secretary of the Finance and Administration Cabinet, subject to the approval of the Governor. The director shall report directly to the state controller. The division shall perform financial record keeping functions at the state controller's direction, and shall be responsible for~~[:~~

~~1.]~~ the performance of the cabinet's functions outlined in KRS 45.305, 48.800, and other related statutes~~[; and~~

~~2. The state government's duties and functions relating to the county fee system for local entities.~~

~~(b) The Division of Social Security shall be headed by a director appointed by the secretary of the Finance and Administration Cabinet pursuant to KRS 12.050. The director shall report directly to the state controller. The division shall be responsible for the duties of the state agency for Social Security specified in KRS 61.410 to 61.500]~~.

Section 12. KRS 42.024 is amended to read as follows:

~~[(1)]~~The *Office*~~[Division]~~ of Material and Procurement Services *within the Office of the Controller* shall be responsible for the performance of the cabinet's purchasing functions under KRS Chapters 45 and 45A, except those purchasing functions related to the acquisition of interests in real property, and contractual and construction services which are related to and required in connection with the construction, renovation, and repair of state-owned buildings. The *Office*~~[Division]~~ of Material and Procurement Services shall be responsible for the control of all state-purchased personal property.

~~[(2) The Division of Surplus Property shall be responsible for the disposition of all personal property of the state declared surplus. The division shall be the single state agency of the Commonwealth of Kentucky that may receive, warehouse, and distribute surplus property under the Federal Property and Administrative Services Act of 1949, as amended, and any other federal law relating to the disposal of surplus federal property to the states and political subdivisions within the states. The division shall comply with federal laws and regulations in the administration of surplus property received through federal agencies. The secretary of the Finance and Administration Cabinet may promulgate administrative regulations in accordance with KRS Chapter 13A as necessary to comply with the minimum standards established by federal laws and regulations governing disposal of surplus federal property and to implement subsection (3) of this section.~~

~~(3) The Division of Creative Services shall provide photography, multimedia, and graphic service to state government.~~

~~(4) The secretary of the Finance and Administration Cabinet may establish, charge, and collect from donees of federal surplus property a fair and reasonable fee or service charge to defray the cost of operating the surplus property disposal program. The fees shall be deposited in a trust and agency account in the State Treasury to the credit of the Division of Surplus Property.]~~

Section 13. KRS 42.065 is amended to read as follows:

(1) *The Office of*~~[An Administrative]~~ Policy and Audit~~[Division is]~~ established in the Office of the *Controller in Section 11 of this Act*~~[Secretary within the Finance and Administration Cabinet.~~

~~(2) The Administrative Policy and Audit Division shall be headed by a director, appointed by the secretary of finance pursuant to KRS 12.050, and shall include other personnel employed pursuant to KRS Chapter 18A, as determined by the director of the division, with the approval of the secretary, to be necessary and desirable to carry out the division's functions.~~

~~(3) The division]~~ may, with the approval of the secretary of *the Finance and Administration Cabinet*~~[finance]~~, conduct any internal audit, investigation, or management review in the Finance and Administration Cabinet related to the secretary's duties and responsibilities as chief financial officer of the Commonwealth pursuant to KRS 42.012.

(2)~~[(4)]~~ When it is necessary to complete an internal audit, investigation, or management review in the Finance and Administration Cabinet, with the written approval of the secretary of the *Finance and Administration Cabinet, the Office of Policy and Audit*~~[Governor's Executive Cabinet, the division]~~ shall have access, during business hours, to all books, reports, papers, and accounts in the office or under the custody or control of any

budget unit, or of any other program cabinet, department, or agency under the authority and direction of the Governor.

Section 14. KRS 42.0245 is repealed and reenacted as KRS 42.0651 and amended to read as follows:

(1)~~[There is established within the Department for Administration in the Finance and Administration Cabinet the Division of Risk Management. The division shall be headed by a director who shall be appointed by the secretary of the Finance and Administration Cabinet subject to the approval of the Governor.~~

~~(2)]~~ The *Office of Policy and Audit*~~[Division of Risk Management]~~ shall:

(a) Oversee and assist the management of the state fire and tornado insurance fund established in KRS Chapter 56;

(b) Develop and manage programs of risk assessment and insurance for the protection of state property not covered by the state fire and tornado insurance fund;

(c) Advise the secretary of the Finance and Administration Cabinet on the fiscal management of programs relating to life insurance, workers' compensation, and health care benefits for state employees;

(d) Serve as the central clearinghouse for coordinating and evaluating existing and new risk management programs within all state agencies;

(e) Develop financing techniques for risk protection; and

(f) Develop and implement other risk management, insurance, and self-insurance programs or other functions and duties as the secretary of the Finance and Administration Cabinet may direct the office to undertake and implement within the general statutory authority and control of the Finance and Administration Cabinet over state property and fiscal affairs of the executive branch of state government, including, but not limited to, those areas pertaining to tort and contractual liability, fidelity, and property risks.

(2)~~[(3)]~~ Nothing in this section shall be construed or interpreted as affecting the operation of the employee benefit programs generally administered by the Division of Employee Benefits within the Personnel Cabinet and of the State Risk and Insurance Services programs administered by the Department of Insurance. However, both of those departments shall coordinate the operation of life insurance, workers' compensation, health care benefit programs, and other self-insured programs with the *Office of Policy and Audit*~~[Division of Risk Management]~~.

(3)~~[(4)]~~ All cabinets, departments, boards, commissions, and other state agencies shall provide to the *Office of Policy and Audit*~~[Division of Risk Management]~~ the technical advice and other assistance the *Office of Policy and Audit*~~[Division of Risk Management]~~ or the secretary of the Finance and Administration Cabinet shall request in the performance of the functions of the *office*~~[division]~~ as described in this section.

(4)~~[(5)]~~ The secretary of the Finance and Administration Cabinet shall have the power and authority to promulgate administrative regulations pursuant to KRS Chapter 13A for purposes of implementing a risk management program for the executive branch of state government. Any administrative regulations promulgated by the secretary shall be administered by the *Office of Policy and Audit*~~[Division of Risk Management]~~.

Section 15. KRS 42.400 is amended to read as follows:

(1) *The Office of Financial Management established in Section 11 of this Act*~~[There is established within the Finance and Administration Cabinet an Office of Financial Management, which]~~ shall be headed by an executive director responsible to the secretary of the Finance and Administration Cabinet, and appointed by the secretary upon approval of the Governor in accordance with the provisions of KRS 12.050.

(2) There are included in the Office of Financial Management *established in Section 11 of this Act*~~[,]~~ the positions of deputy executive directors for investment and debt management, who shall be employed in the classified service as set forth in KRS Chapter 18A.

Section 16. KRS 42.410 is amended to read as follows:

(1) The Office of Financial Management established in *Section 11 of this Act*~~[KRS 42.400]~~ shall, subject to the provisions of KRS 41.020 to 41.375 and KRS 42.500, have and perform functions and duties as follows:

(a) The analysis and management of short and long-term cash flow requirements;

(b) The maximization of the return on state investments given the cash flow and liquidity requirements;

(c) The coordination and monitoring of cash needs relative to investment and debt activity;

(d) The development of a long-term debt plan including criteria for the issuance of debt and an evaluation of how much total state debt is justified;

(e) The responsibility for liaison with the General Assembly on all investment and debt matters, including, but not limited to, new bond issues, the status of state debt, and the status of state investments; and

(f) All other functions of the cabinet relative to state investment and debt management including, but not limited to, the making of debt service payments, the sale of bonds, and staff assistance to the State Property and Buildings Commission, *the Asset Liability Commission,* and the State Investment Commission.

(2) The Office of Financial Management shall render monthly written reports concerning the performance of each investment to the State Investment Commission.

(3) The Office of Financial Management shall review state appropriation-supported bond issues~~[every six (6) months]~~ for possible debt service savings through~~[advanced]~~ refundings *as market conditions warrant.*

(4) The Office of Financial Management shall submit a report within forty-five (45) days after the publication of the Comprehensive Annual Financial Report to the Legislative Research Commission, for referral to the appropriate committee, indicating the bond issues refunded, original and new interest rates, estimated savings, original and new amortization schedules, issuance costs, debt reserves, disposition of savings, and information on economic, fiscal, and market indicators of the Commonwealth's debt position.

(5) The state debt report shall include, but not be limited to, economic, fiscal, and market indicators of debt position as set forth in this section. Indicators shall be presented in tabular and, where appropriate, graphical form. Indicators shall be presented for the fiscal year just ended and, if data is available and except as otherwise noted, for the preceding nine (9) fiscal years.

(6) Economic indicators shall include:

(a) Nonappropriation-supported debt as a percent of state total personal income;

(b) Nonappropriation-supported debt as a percent of total assessed value of property;

(c) Nonappropriation-supported debt per capita;

(d) Appropriation-supported debt as a percent of state total personal income;

(e) Appropriation-supported debt as a percent of total assessed value of property;

(f) Appropriation-supported debt per capita;

(g) Appropriation-supported debt service as a percent of total state personal income;

(h) Appropriation-supported debt service as a percent of total assessed value of property; and

(i) Appropriation-supported debt service per capita.

(7) Fiscal indicators shall be reported separately and in total for the general fund, the road fund, and each restricted fund account from which debt service is expended.

(8) Fiscal indicators shall include:

(a) Annual appropriation-supported debt service as a percent of total revenues; and

(b) Annual appropriation-supported debt service as a percent of available revenues.

(9) Market indicators shall include:

(a) The rating assigned by Moody's Investors Services, Inc., or a comparable rating agency, to each nonappropriation-supported bond issued in the fiscal year just ended;

(b) The rating assigned by Moody's Investors Services, Inc., or a comparable rating agency, to each appropriation-supported bond issued in the fiscal year just ended;

(c) A comparison of the difference between the true interest cost of each nonappropriation-supported bond issued and the value of a selected revenue bond index, as published by the Bond Buyer Weekly, the Delphis Hanover Corporation, or other comparable service on a date relevant to the bond issue; and

(d) A comparison of the difference between the true interest cost of each appropriation-supported bond issued and the value of a selected municipal bond index, as published by the Bond Buyer Weekly, the Delphis Hanover Corporation, or other comparable service on a date relevant to the bond issue.

(10) The state debt report shall contain a complete description of the sources of data used to prepare the report. This description shall include, but not be limited to, an enumeration, by fund and restricted fund account, of all debt, debt service, and revenue figures; the source and publication date of figures used for state total personal income, total assessed value of property, population, and selected bond indexes.

(11) If the sources of data used in a current report differ substantially from those used in the report of the preceding year, the report shall include a detailed explanation of the change. If possible, data presented in the current report for previous years shall be calculated so that, in any one (1) report, indicators for all years are calculated using consistent data categories. The use of any inconsistent data shall be noted and explained.

(12) Nothing in this section shall authorize any act inconsistent with the authority granted the State Investment Commission by KRS 42.500 and 42.525.

Section 17. KRS 42.027 is repealed and reenacted as KRS 42.425 and amended to read as follows:

(1) *(a)* The Department for Facilities *and Support Services*~~[Management]~~ established in the Finance and Administration Cabinet by *Section 5 of this Act*~~[KRS 42.014]~~ shall be generally responsible for performance of the cabinet's functions and duties as outlined in KRS Chapters 45, 45A, and 56 with relation to the management and administration of the State Capital Construction Program, including without limitation to the generality thereof the procurement of necessary consulting services related to capital construction and building renovation projects, construction services, and supervision of building construction projects, and for the maintenance and operation of the state government's real property management functions and physical plant management functions.

(b) The department shall be headed by a commissioner appointed by the secretary of the Finance and Administration Cabinet.

(c) The department shall have the primary responsibility for developing and implementing policies applicable to all state agencies to ensure effective planning for and efficient operation of state office buildings, and shall provide appropriate assistance regarding the planning and efficient operation of all state facilities.

(d) The department shall be divided for administrative and operational purposes into a*:*

1. Division of Engineering *and Contract Administration;*

2. Office of Building and Mechanical Services, headed by an executive director appointed by the secretary in accordance with KRS 12.050. The office shall provide building and grounds maintenance, mechanical maintenance, and electronic security services to state-owned facilities across the Commonwealth and shall consist of the Division of Building Services and the Division of Mechanical Services;~~[a Division of Contracting and Administration, a Division of Building Services, a Division of Mechanical Maintenance and Operations, a]~~

3. Division of Real *Properties;*~~[Property, and a]~~

4. Division of Historic Properties*; and*

5. Division of Surplus Properties.

(e) Each division~~[, each of which]~~ shall be headed by a *division* director appointed by the secretary, subject to the approval of the Governor, and responsible to the commissioner *of the Department for Facilities and Support Services*. The commissioner shall provide for the distribution of the department's work among the divisions within the department.

(f) The Division of Surplus Properties shall be responsible for the disposition of all personal property of the state declared surplus. The division shall be the single state agency of the Commonwealth of Kentucky that may receive, warehouse, and distribute surplus property under the Federal Property and Administrative Services Act of 1949, as amended, and any other federal law relating to the disposal of

surplus federal property to the states and political subdivisions within the states. The division shall comply with federal laws and regulations in the administration of surplus property received through federal agencies. The division director may promulgate administrative regulations in accordance with KRS Chapter 13A as necessary to comply with minimum standards established by federal laws and regulations governing disposal of surplus federal property and to implement the fee or service charge provisions contained in this paragraph. The division director may establish, charge, and collect from donees of federal surplus property a fair and reasonable fee or service charge to defray the cost of operating the surplus property disposal program. The fees shall be deposited in a trust and agency account in the State Treasury to the credit of the Division of Surplus Properties.

(2) In conjunction with the responsibilities listed in subsection (1) of this section, the Department for Facilities *and Support Services*~~[Management]~~ shall have the following duties:

(a) Establish policies to ensure efficient utilization of state property by:

1. Requiring the development of guidelines which set forth space standards and criteria for determining the space needs of state agencies, and maintaining an inventory which tracks the agencies' compliance with those standards and criteria; and

2. Requiring certification of compliance, or justification for exceptions, as a criterion for approval of additional space;

(b) Establish policies to ensure effective planning for state facilities by:

1. Developing a long-range plan for the Frankfort area, with priority on reducing dependency on leased space and encouraging the consolidation of agencies' central offices into single locations, and shared offices for agencies with similar functions; and

2. Developing long-range plans for housing state agencies in metropolitan areas, with priority on centralization of services and coordination of service delivery systems; and

3. Encouraging executive branch agencies to expand long-range planning efforts, consistent with the policies of the Capital Planning Advisory Board; and

4. Supporting long-range planning for a statewide information technology infrastructure to more efficiently deliver state government services;

(c) Establish priorities to allow least-cost financing of state facilities by:

1. Initiating policies which authorize the state to use innovative methods to lease, purchase, or construct necessary facilities; and

2. Requiring cost analysis to determine the most effective method of meeting space needs, with consideration for ongoing operations and initial acquisition; and

(d) Implement and maintain a comprehensive real property and facilities management database to include all state facilities and land owned or leased by the executive branch agencies, including any postsecondary institution. All state agencies and postsecondary institutions shall work cooperatively with the Department for Facilities *and Support Services*~~[Management]~~ to implement and maintain the database.

(3) The Department for Facilities *and Support Services*~~[Management]~~ shall develop plans for the placement of computing and communications equipment in all facilities owned or leased by state government. As part of this planning process, the department shall:

(a) Provide adequate site preparation in all state-owned facilities and require the same of those from whom the state leases space as part of the lease agreement;

(b) Fund a minimum level of site preparation for computing and communications in each new state-owned facility; and

(c) As new office sites are developed, or existing ones undergo renovation, consider the placement of shareable high-cost, high-value facilities at strategic locations throughout the state. These facilities may include video teleconference centers, optical scanning and storage services, and gateways to high-speed communication networks.

Section 18. KRS 42.0271 is repealed and reenacted as KRS 42.430 and amended to read as follows:

(1) To honor those Kentuckians who proudly served their country during the Vietnam War but remain unaccounted for, the Department of Veterans' Affairs shall update the plaque at the base of the Freedom Tree near the Floral Clock on the grounds of the New Capitol Annex to contain the names of Kentucky Vietnam War POW/MIAs from the most recent official accounting available from the United States Department of Defense. The plaque shall also contain a depiction of the POW/MIA flag of the National League of Families of American Prisoners of War and Missing in Southeast Asia.

(2) The Department of Veterans' Affairs shall be responsible for the design of the new plaque required by subsection (1) of this section, and the plaque shall be paid for by the Department of Veterans' Affairs. The Department of Veterans' Affairs may receive appropriations, gifts, grants, federal funds, and any other funds, both public and private, to defray the cost of updating the plaque.

(3) The Department of Facilities *and Support Services*~~[Management]~~ shall be responsible for preparing the base for the updated plaque, and for installing the plaque. The Department of Facilities *and Support Services*~~[Management]~~ shall be reimbursed the cost of the installation by the Department of Veterans' Affairs. The Department of Facilities *and Support Services*~~[Management]~~ shall also be responsible for the routine maintenance of the Freedom Tree, the memorial plaque, and the grounds surrounding the tree and plaque.

Section 19. KRS 131.020 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~*, headed by a commissioner appointed by the secretary with the approval of the Governor,* shall be organized into the following functional units:

(a) *Division of Legislative Services, headed by a division director who shall report to the commissioner of the Department of Revenue. The division shall perform such duties as providing support to the commissioner's office; managing the department's legislative efforts, including developing and drafting proposed tax legislation, coordinating review of proposed legislation, and coordinating development of administrative regulations; providing technical support and research assistance to all areas of the department; performing studies, surveys, and research projects to assist in policy-making decisions; and performing various miscellaneous duties, including working on special projects and conducting training;*

(b) Office of Processing and Enforcement, headed by an executive director who shall report directly to the commissioner. The office shall be responsible for processing documents, depositing funds, collecting debt payments, and coordinating, planning, and implementing a data integrity strategy. The office shall consist of the:

1. Division of Operations, which shall be responsible for opening all tax returns, preparing the returns for data capture, coordinating the data capture process, depositing receipts, maintaining tax data, and assisting other state agencies with similar operational aspects as negotiated between the department and the other agency;

2. Division of Collections, which shall be responsible for initiating all collection enforcement activity related to due and owing tax assessments and for assisting other state agencies with similar collection aspects as negotiated between the department and the other state agency; and

3. Division of Registration and Data Integrity, which shall be responsible for registering businesses for tax purposes, ensuring that the data entered into the department's tax systems is accurate and complete, and assisting the taxing areas in proper procedures to ensure the accuracy of the data over time;

~~[Office of the Secretary. The Office of the Secretary shall include the Office of the Taxpayer Ombudsman, the Office of Financial and Administrative Services, principal assistants and other personnel appointed by the secretary pursuant to KRS Chapter 12 as are necessary to enable the secretary to perform functions of the office;~~

~~(b) Office of Financial and Administrative Services. The Office of Financial and Administrative Services shall be headed by an executive director. The functions and duties of the office shall include personnel services, administrative support, preparation and administration of the budget, training, and asset management;]~~

(c) Office of *the* Taxpayer Ombudsman. The Office of *the* Taxpayer Ombudsman shall be headed by *an executive director, functioning as the*~~[a]~~ taxpayer ombudsman as established by KRS 131.051(1) *and*

KRS 131.071, who shall report to the commissioner. The functions and duties of the office shall consist of those established by KRS 131.071;

(d) ~~[Department of Law. The Department of Law shall be headed by a commissioner. The functions and duties of the department shall include establishing Revenue Cabinet tax policies, providing information to the public, conducting tax research, collecting delinquent taxes, conducting conferences, administering taxpayer protests, issuing final rulings, administering all activities relating to assessments issued pursuant to KRS 138.885, 139.185, 139.680, 141.340, 142.357, and 143.085, enforcing the criminal laws of the Commonwealth involving revenue and taxation, and representing the cabinet in legal and administrative actions. The Department of Law shall consist of the divisions of legal services, protest resolution, tax policy, collections, and research;~~

~~(e)]~~*Office*~~[Department]~~ of Property Valuation. The *Office*~~[Department]~~ of Property Valuation shall be headed by *an executive director who shall report directly to the*~~[a]~~ commissioner. The functions and duties of the *office*~~[department]~~ shall include mapping, providing assistance to property valuation administrators, supervising the property valuation process throughout the Commonwealth, valuing the property of public service companies, valuing unmined coal and other mineral resources, administering tangible and intangible personal property taxes, and collecting delinquent taxes. The *Office*~~[Department]~~ of Property Valuation shall consist of the Divisions of*:*

1. Local Valuation, *which shall oversee the real property tax assessment and collection process throughout the state in each county's property valuation administrator's and sheriff's office;*

2. State Valuation, *which shall administer all state-assessed taxes, including public service property tax, motor vehicle property tax, and the tangible and intangible tax program;* and

3. Minerals Taxation and GIS Services, which shall administer the severance tax and unmined minerals property tax programs and coordinate the department's geographical information system (GIS)~~[Technical Support]~~;

(e) Office of Sales and Excise Taxes, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters relating to sales and use taxes and miscellaneous excise taxes, including but not limited to technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:

1. Division of Sales and Use Tax, which shall administer the sales and use tax; and

2. Division of Miscellaneous Taxes, which shall administer various other taxes, including but not limited to alcoholic beverage taxes; cigarette enforcement fees, stamps, meters, and taxes; gasoline tax; bank franchise tax; inheritance and estate tax; insurance premiums and insurance surcharge taxes; motor vehicle tire fees and usage taxes; and special fuels taxes;

(f) Office of Income Taxation, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters related to income and corporation license taxes, including technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:

1. Division of Individual Income Tax, which shall administer the following taxes or returns: individual income, fiduciary, and employer withholding; and

2. Division of Corporation Tax, which shall administer the corporation income tax, corporation license tax, pass-through entity withholding, and pass-through entity reporting requirements; and

(g) Office of Field Operations, headed by an executive director who shall report directly to the commissioner. The office shall manage the regional taxpayer service centers and the field audit program.

~~[(f) Department of Tax Administration. The Department of Tax Administration shall be headed by a commissioner. The functions and duties of the department shall include recordkeeping, conducting audits, reviewing audits, rendering taxpayer assistance, and collecting delinquent taxes. The Department of Tax Administration shall consist of the Divisions of Field Operations, Revenue Operations, and Compliance and Taxpayer Assistance; and~~

~~(g) Department of Information Technology. The Department of Information Technology shall be headed by a commissioner. The functions and duties of the department shall include the development and maintenance of technology and information management systems in support of all units of the cabinet. The Department of Information Technology shall consist of the Division of Systems Planning and Development and the Division of Technology Infrastructure Support.]~~

(2) The functions and duties of the *department*~~[cabinet]~~ shall include conducting conferences, administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the *department*~~[cabinet]~~ shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the *department*~~[cabinet]~~, and to attempt to fairly and equitably resolve tax controversies at the administrative level.

(3) *The department shall maintain an accounting structure for the one hundred twenty (120) property valuation administrators' offices across the Commonwealth in order to facilitate use of the state payroll system and the budgeting process.*

(4) Except as provided in KRS 131.190(4), the *department*~~[cabinet]~~ shall fully cooperate with and make tax information available as prescribed under KRS 131.190(2) to the Governor's Office for Economic Analysis as necessary for the office to perform the tax administration function established in KRS 42.410.

(5) Executive directors and division directors established under this section shall be appointed by the secretary with the approval of the Governor.

Section 20. KRS 131.071 is amended to read as follows:

(1) There is hereby created and established within the *Department of* Revenue~~[Cabinet]~~ an Office of Taxpayer Ombudsman to be staffed with a taxpayers' rights advocate and such other support personnel as may be deemed necessary to carry out the spirit and the specific purposes of KRS 131.041 to 131.081.~~[For administrative and budgetary purposes, the Office of Taxpayer Ombudsman shall be attached to the Office of the Secretary of Revenue.]~~

(2) The taxpayer ombudsman shall be a person with either no less than five (5) years of tax administration experience at a supervisory or management level or no less than ten (10) years of tax administration experience with at least five (5) years of experience working directly in the Office of Taxpayer Ombudsman. The taxpayer ombudsman shall possess a broad general knowledge of the tax laws, regulations, systems, and procedures administered or utilized by the *department*~~[cabinet]~~.

(3) The taxpayer ombudsman shall:

(a) Coordinate the resolution of taxpayer complaints and problems if so requested by a taxpayer or his representative.

(b) Provide recommendations to the *department*~~[cabinet]~~ for new or revised informational publications and recommend taxpayer and *department*~~[cabinet]~~ employee education programs needed to reduce or eliminate errors or improve voluntary taxpayer compliance.

(c) Provide recommendations to the *department*~~[cabinet]~~ for simplification or other improvements needed in tax laws, regulations, forms, systems, and procedures to promote better understanding and voluntary compliance by taxpayers.

(d) At least annually, on or before October 1, prepare and submit a report to the *commissioner*~~[secretary]~~ of the *Department of* Revenue~~[Cabinet]~~ summarizing the activities of the Office of Taxpayer Ombudsman during the immediately preceding fiscal year describing any recommendations made pursuant to paragraphs (b) and (c) of this subsection, including the progress in implementing such recommendations, and providing such other information as the taxpayer ombudsman deems appropriate relating to the rights of Kentucky taxpayers.

Section 21. KRS 11.501 is amended to read as follows:

The General Assembly finds and declares that:

(1) The establishment of the position of the *executive director of the Commonwealth Office of Technology, appointed by the secretary of the Finance and Administration Cabinet with the approval of the Governor*,~~[Chief Information Officer]~~ as the Commonwealth's single point of contact and spokesperson for all

matters related to information technology and resources, including policies, standard setting, deployment, strategic and tactical planning, acquisition, management, and operations is necessary and in keeping with the industry trends of the private and public sectors;

(2) The appropriate use of information technology by the Commonwealth can improve operational productivity, reduce the cost of government, enhance service to customers, and make government more accessible to the public;

(3) Government-wide planning, investment, protection, and direction for information resources must be enacted to:

(a) Ensure the effective application of information technology on state business operations;

(b) Ensure the quality, security, and integrity of state business operations; and

(c) Provide privacy to the citizens of the Commonwealth;

(4) The Commonwealth must provide information technology infrastructure, technical directions, and a proficient organizational management structure to facilitate the productive application of information technology and resources to accomplish programmatic missions and business goals;

(5) Oversight of large scale and government statewide systems or projects is necessary to protect the Commonwealth's investment and to ensure appropriate integration with existing or planned systems;

(6) A career development plan and professional development program for information technology staff of the executive branch is needed to provide key competencies and adequate on-going support for the information resources of the Commonwealth and to ensure that the information technology staff will be managed as a Commonwealth resource;

(7) The Commonwealth is in need of information technology advisory capacities to the Governor and the agencies of the executive cabinet;

(8) Appropriate public-private partnerships to supplement existing resources must be developed as a strategy for the Commonwealth to comprehensively meet its spectrum of information technology and resource needs;

(9) Technological and theoretical advances in information use are recent in origin, immense in scope and complexity, and change at a rapid rate, which presents Kentucky with the opportunity to provide higher quality, more timely, and more cost-effective government services to ensure standardization, interoperability, and interconnectivity;

(10) The sharing of information resources and technologies among executive branch state agencies is the most cost-effective method of providing the highest quality and most timely government services that would otherwise be cost-prohibitive;

(11) The ability to identify, develop, and implement changes in a rapidly moving field demands the development of mechanisms to provide for the research and development of technologies that address systems, uses, and applications; and

(12) The exercise by the *executive director of the Commonwealth Office of Technology*~~[chief information officer]~~ of powers and authority conferred by KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and 194B.102 shall be deemed and held to be the performance of essential governmental functions.

Section 22. KRS 11.505 is amended to read as follows:

(1) There is hereby created within the *Finance and Administration Cabinet*~~[Office of the Governor]~~ an agency of state government known as the *Commonwealth Office of Technology*~~[Governor's Office for Technology]~~.

(2) The *Commonwealth Office of*~~[Governor's Office for]~~ Technology shall be headed by *an executive director appointed by the secretary of the Finance and Administration Cabinet. Duties and functions of the executive director shall include those*~~[the chief information officer for the Commonwealth]~~ established in KRS 11.511.

(3) The *Commonwealth Office of Technology*~~[Governor's Office for Technology]~~ shall consist of the following *four (4)*~~[six (6) executive]~~ offices, each headed by an executive director *and organized into divisions headed by a division director*:

(a) Office of *the 911 Coordinator, which shall be headed by an executive director who shall be appointed by the Governor subject to confirmation by the Senate, from a list of no more than three (3) candidates recommended by the Commercial Mobile Radio Service Emergency Telecommunications Board. The*

executive director shall serve at the pleasure of the Governor. Vacancies shall be filled in the same manner as the original appointment. The Office of the 911 Coordinator shall have the duties and responsibilities established in Section 24 of this Act~~[Geographic Information]~~;

(b) *Office of Enterprise Information Technology Policy and Planning, which shall consist of the following divisions:*

1. Division of Enterprise Architecture;

2. Division of Relationship and Service Management;

3. Division of Geographic Information; and

4. Division of Information Technology Contract and Asset Management~~[Office of Human Resource Management and Development]~~;

(c) ~~[Office of Administrative Services, consisting of the:~~

~~1. Division of Financial and Business Management; and~~

~~2. Division of Asset Management;~~

~~(d) Office of Policy and Customer Relations, consisting of the:~~

~~1. Division of Planning and Architecture;~~

~~2. Division of Relationship Management; and~~

~~3. Division of Information Technology Training;~~

~~(e)]~~Office of Infrastructure *Services*~~[Service]~~, consisting of the:

1. Division of *Infrastructure*~~[End User]~~ Support;

2. Division of Security Services;

3. Division of Computing Services; *and*

4. Division of Communication Services; and

~~[5. Division of Information Technology Operations;]~~

(d)~~[(f)]~~ Office of Consulting and Project Management, consisting of the:

1. Division of Centers of Expertise;

2. ~~[Division of Project Office and Integration;~~

~~3.]~~Division of Human Services Systems;

3.~~[4.]~~ Division of Financial Systems;

4.~~[5.]~~ Division of Transportation Systems; *and*

5.~~[6.]~~ Division of~~[Workforce Development and]~~ General Government Systems~~[; and~~

~~(g) Office of General Counsel]~~.

(4) Executive directors and division directors appointed under this section shall be appointed by the secretary with the approval of the Governor.

Section 23. KRS 11.511 is amended to read as follows:

(1) ~~[There is hereby established a position of chief information officer for the Commonwealth. This position shall be exempt from the classified service under KRS 18A.115 and from the salary limitations of KRS 64.640, and shall be bonded commensurate with cabinet secretaries under KRS 62.160. The chief information officer shall be appointed by the Governor and serve in the Governor's Executive Cabinet. The chief information officer shall report to the secretary of the Governor's cabinet concerning his or her responsibilities to provide direction, stewardship, leadership, and general oversight of information technology and information resources.~~

~~(2)]~~The *executive director of the Commonwealth Office of Technology*~~[chief information officer]~~ shall be the principal adviser to the Governor and the executive cabinet on information technology policy, including policy on the acquisition and management of information technology and resources.

(2)~~[(3)]~~ The *executive director*~~[chief information officer]~~ shall carry out functions necessary for the efficient, effective, and economical administration of information technology and resources within the executive branch. Roles and duties of the *executive director*~~[chief information officer]~~ shall include but not be limited to:

(a) Assessing, recommending, and implementing information technology governance and organization design to include effective information technology personnel management practices;

(b) Integrating information technology and resources plans with agency business plans;

(c) Overseeing shared Commonwealth information technology resources and services;

(d) Performing as the focal point and representative for the Commonwealth in information technology and related areas with both the public and private sector;

(e) Establishing appropriate partnerships and alliances to support the effective implementation of information technology projects in the Commonwealth;

(f) Identifying information technology applications that should be statewide in scope, and ensuring that these applications are not developed independently or duplicated by individual state agencies of the executive branch;

(g) Establishing performance measurement and benchmarking policies and procedures;

(h) Preparing annual reports and plans concerning the status and result of the state's specific information technology plans and submitting these annual reports and plans to the Governor and the General Assembly; and

(i) Managing the *Commonwealth Office of Technology*~~[Governor's Office for Technology]~~ and its budget.

SECTION 24. A NEW SECTION OF KRS 11.501 to 11.517 IS CREATED TO READ AS FOLLOWS:

The Office of the 911 Coordinator shall have the following duties and responsibilities:

(1) Assist state and local government agencies in their efforts to improve and enhance 911 systems in Kentucky, including:

(a) Providing consultation to local elected officials, 911 coordinators, and board members; and

(b) Providing consultation to communities with basic 911 systems that are updating their facilities, equipment, or operations;

(2) Develop and provide educational forums and seminars for the public safety community;

(3) Develop standards and protocols for the improvement and increased efficiency of 911 services in Kentucky; and

(4) Administer the provisions of KRS 65.7621 to 65.7643 relating to commercial mobile radio service emergency telecommunications.

Section 25. KRS 7B.080 is amended to read as follows:

(1) The operation of the center shall be funded from the restricted agency fund established in subsection (3) of this section.

(2) There is hereby established a fiduciary fund to be entitled the Kentucky Long-Term Policy Research Center fund. The fund may receive appropriations, gifts, grants, and federal funds. Moneys in the fund shall not lapse back to the General Fund at the end of any fiscal year. Moneys in the fund shall be invested by the Office of Financial Management *within the Office of the Controller*, consistent with the provisions of KRS Chapter 42.

(3) A restricted agency fund account is established to receive the interest on the fiduciary fund and any other resources made available to the center. Interest from the fiduciary fund shall be credited to the restricted agency fund account on a monthly basis for the center's operations. Moneys in the account shall be invested by the Office of Financial Management *within the Office of the Controller*, consistent with the provisions of KRS Chapter 42.

(4) Any appropriation by the General Assembly to the fiduciary fund shall remain intact and shall not be available to the board, and should the center and its functions terminate, the principal and any remaining interest from other accumulated funds shall revert to the general fund of the Commonwealth or to the donor.

Section 26. KRS 11.026 is amended to read as follows:

(1) As used in this section, "state curator" means the director of the Division of Historic Properties within the Department *for Facilities and Support Services*~~[of Facilities Management]~~ in the Finance and Administration Cabinet with responsibilities for the preservation, restoration, acquisition, and conservation of all decorations, objects of art, chandeliers, china, silver, statues, paintings, furnishings, accouterments, and other aesthetic materials that have been acquired, donated, loaned, and otherwise obtained by the Commonwealth of Kentucky for the Executive Mansion, the Old Governor's Mansion, the New State Capitol, and other historic properties under the control of the Finance and Administration Cabinet.

(2) The Historic Properties Advisory Commission is established to provide continuing attention to the maintenance, furnishings, and repairs of the Executive Mansion, Old Governor's Mansion, and New State Capitol. The commission shall be attached to the Finance and Administration Cabinet for administrative purposes.

(3) The commission shall consist of fourteen (14) members. It is recommended that one (1) shall be the state curator, one (1) shall be the director of the Kentucky Historical Society, one (1) shall be a resident of Franklin County with experience in restoration, one (1) shall be the director of the Executive Mansion, one (1) shall be the director of the Old Governor's Mansion, and the remainder of the membership shall be selected from the state-at-large from persons with experience in historical restoration.

(4) The officers of the commission shall consist of a chairman, who shall be appointed by the Governor, and a secretary, who shall be responsible for the keeping of the records and administering the directions of the commission. The state curator of the Commonwealth of Kentucky shall serve as the secretary of the commission. A member of the Governor's family may serve as an honorary member of the commission. A simple majority of the membership shall constitute a quorum for the transaction of business by the commission.

(5) The public members of the commission shall be appointed by the Governor and shall serve terms of four (4) years except that of the members initially appointed, two (2) members shall serve terms of one (1) year; two (2) members shall serve terms of two (2) years; one (1) member shall serve a term of three (3) years; and one (1) member shall serve a term of four (4) years. The director of the Historical Society and director of the Executive Mansion shall serve on the commission in an ex officio capacity. The persons holding the offices of director of the Historical Society, director of the Executive Mansion and state curator shall serve terms concurrent with holding their respective offices.

(6) Each commission member shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties on the commission.

(7) There is established in the State Treasury a historic properties endowment trust fund which shall be administered by the director of the Division of Historic Properties under the supervision of the Commissioner of the Department for Facilities *and Support Services*~~[Management]~~. The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon warrant of the secretary of finance and administration. The fund shall be used for carrying out the functions of the Division of Historic Properties. The Division of Historic Properties may publish written material pertaining to historic properties of the state and charge and collect a reasonable fee for any such publications. The proceeds shall be deposited to the credit of the fund and after paying the costs of publication, the balance of the proceeds shall be used for purposes specified in KRS 11.027.

Section 27. KRS 11.027 is amended to read as follows:

(1) The commission shall meet at least every six (6) months and when called into session by the chairman at the request of the Governor, of any two (2) or more members of the commission, or on his own motion.

(2) The commission shall examine the Executive Mansion, the Old Governor's Mansion, and the New State Capitol at least once each year, and the commission shall have authority over any construction, repairs, structural restoration, or renovation of these properties. The commission shall supervise the maintenance of a current inventory of all furnishings in the properties and the inventory shall be maintained by the Division of Historic Properties in the Department for Facilities *and Support Services*~~[Management]~~ in the Finance and Administration Cabinet. The Division of Historic Properties shall maintain inventory records relating to all such property of the state and no such property shall be disposed of except upon recommendation of the director of the Division of Historic Properties with advice of the Historic Properties Advisory Commission. The proceeds realized from the sale of any items shall be deposited in the historic properties endowment fund, established by KRS 11.026.

(3) The commission shall recommend, from time to time, on the needs for furnishings, maintenance, repair, or renovation of the Executive Mansion, the Old Governor's Mansion, and the New State Capitol; and the Department for Facilities *and Support Services*~~[Management]~~ in the Finance and Administration Cabinet shall, from funds available, take the action recommended. The commission shall have final authority over articles placed in the properties and moneys spent on these buildings. The commission shall develop criteria for this display of objects on and for the use of the public areas of the basement and first and second floors of the New State Capitol and shall be consulted by the director of the Division of Historic Properties before objects are accepted for or removed from permanent display in the Capitol.

(4) The commission shall provide coordination and make arrangements for an orderly transition between outgoing and incoming chief executives.

Section 28. KRS 11.068 is amended to read as follows:

(1) There is created an agency of state government known as the Office of State Budget Director. The office shall be attached for administrative purposes to the Office of the Governor.

(2) The office shall include the following major organizational units:

(a) The Office of State Budget Director, headed by the state budget director. The state budget director shall be appointed by the Governor pursuant to KRS 11.040 and shall serve, under direction of the Governor, as state budget director and secretary of the state planning committee. The office shall include such principal assistants and supporting personnel appointed pursuant to KRS Chapter 12 as may be necessary to carry out the functions of the office. The office shall have such duties, rights, and responsibilities as are necessary to perform, without being limited to, the following functions:

1. Functions relative to the preparation, administration, and evaluation of the executive budget as provided in KRS Chapters 45 and 48 and in other laws, including but not limited to, capital construction budgeting, evaluation of state programs, program monitoring, financial and policy analysis and issue review, and executive policy implementation and compliance;

2. Continuous evaluation of statewide management and administrative procedures and practices, including but not limited to, organizational analysis and review, economic forecasting, technical assistance to state agencies, forms control, and special analytic studies as directed by the Governor; and

3. Staff planning functions of the state planning committee and evaluation of statewide management and administrative practices and procedures.

(b) Governor's Office for Policy and Management, headed by the state budget director, who shall report to the Governor. The state budget director shall maintain staff employed pursuant to KRS Chapter 18A sufficient to carry out the functions of the office relating to state budgeting as provided in paragraph (a) of this subsection and state planning as provided in KRS Chapter 147, review of administrative regulations proposed by executive agencies prior to filing pursuant to KRS Chapter 13A and such other duties as may be assigned by the Governor.

(c) Governor's Office for Policy Research, headed by the state budget director. The Governor's Office for Policy Research shall assist the state budget director in providing policy research data, information, and analysis to the Governor on public policy issues that impact the Commonwealth. The state budget director shall identify and direct the research to be completed and provided by the office. The state budget director shall maintain staff employed in accordance with KRS Chapter 18A sufficient to carry out the functions of the office.

(d) Governor's Office for Economic Analysis, headed by the state budget director, who shall report to the Governor. The state budget director shall maintain staff employed in accordance with KRS Chapter 18A sufficient to carry out the functions of the office. The Governor's Office for Economic Analysis shall carry out the revenue estimating and economic analysis functions and responsibilities, including but not limited to the functions and responsibilities assigned to the Office of State Budget Director by KRS 48.115, 48.117, 48.120, 48.400, and 48.600. The Governor's Office for Economic Analysis shall perform the tax administrative function of using tax data to provide the *Department of* Revenue ~~[Cabinet]~~with studies, projections, statistical analyses, and any other information that will assist the *Department of* Revenue~~[Cabinet]~~ in performing its tax administrative functions.

Section 29. KRS 11.200 is amended to read as follows:

(1) There is created the Commission on Small Business Advocacy. The commission shall be a separate administrative body of state government within the meaning of KRS 12.010(8).

(2) It shall be the purpose of the Commission on Small Business Advocacy to:

(a) Address matters of small business as it relates to government affairs;

(b) Promote a cooperative and constructive relationship between state agencies and the small business community to ensure coordination and implementation of statewide strategies that benefit small business in the Commonwealth;

(c) Coordinate and educate the small business community of federal, state, and local government initiatives of value and importance to the small business community;

(d) Create a process by which the small business community is consulted in the development of public policy as it affects their industry sector;

(e) Aid the small business community in navigating the regulatory process, when that process becomes cumbersome, time consuming, and bewildering to the small business community; and

(f) Advocate for the small business, as necessary when regulatory implementation is overly burdensome, costly, and harmful to the success and growth of small businesses in the Commonwealth.

(3) The Commission on Small Business Advocacy shall consist of thirty-one (31) members:

(a) The Governor, or the Governor's designee;

(b) The secretaries of the following cabinets, or their designees:

1. Economic Development;

2. Natural Resources and Environmental Protection;

3. *Finance and Administration*~~[Revenue]~~; and

4. Transportation;

(c) The state director of the Small Business Development Centers in Kentucky;

(d) One (1) representative of each of the following organizations, appointed by the Governor from a list of three (3) nominees submitted by the governing bodies of each organization:

1. Associated Industries of Kentucky;

2. National Federation of Independent Business;

3. Kentucky Chamber of Commerce;

4. Kentucky Federation of Business and Professional Women's Club, Inc.;

5. Kentucky Retail Federation;

6. Professional Women's Forum;

7. Kentuckiana Minority Supplier Development Council;

8. Greater Lexington Chamber of Commerce;

9. Lexington chapter of the National Association of Women Business Owners;

10. Greater Louisville, Inc.;

11. Louisville chapter of the National Association of Women Business Owners;

12. Northern Kentucky Chamber of Commerce, Inc.;

13. Northern Kentucky - Greater Cincinnati chapter of the National Association of Women Business Owners;

14. Kentucky Association of Realtors;

15. Henderson - Henderson County Chamber of Commerce;

16. Kentucky Coal Council;

17. Kentucky Farm Bureau Federation; and

18. Kentucky Homebuilders Association;

(e) One (1) representative from small business from each of the following areas, appointed by the Governor:

1. A city of the second class;

2. A city of the third class;

3. A city of the fourth class; and

4. A city of the fifth class;

(f) One (1) representative who is a small business owner served by each of the following organizations, appointed by the Governor:

1. The Center for Rural Development; and

2. Community Ventures Corporation; and

(g) One (1) representative who is a small business owner under the age of thirty-five (35), appointed by the Governor.

(4) The terms of all members appointed by the Governor shall be for four (4) years, except that the original appointments shall be staggered so that seven (7) appointments shall expire at two (2) years, seven (7) appointments shall expire at three (3) years, and seven (7) appointments shall expire at four (4) years from the dates of initial appointment.

(5) The Governor shall appoint the chair and vice chair of the commission from the list of appointed members.

(6) The commission shall meet quarterly and at other times upon call of the chair or a majority of the commission.

(7) A quorum shall be a majority of the membership of the commission.

(8) Members of the commission shall serve without compensation but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the commission, subject to Finance and Administration Cabinet administrative regulations.

(9) There shall be an executive director, who shall be the administrative head and chief executive officer of the commission, recommended by the commission and appointed by the Governor. The executive director shall have authority to hire staff, contract for services, expend funds, and operate the normal business activities of the commission.

(10) The Commission on Small Business Advocacy shall be an independent agency attached to the Office of the Governor.

Section 30. KRS 11.507 is amended to read as follows:

(1) The roles and duties of the *Commonwealth Office of*~~[Governor's Office for]~~ Technology shall include but not be limited to:

(a) Providing technical support and services to all executive agencies of state government in the application of information technology;

(b) Assuring compatibility and connectivity of Kentucky's information systems;

(c) Developing strategies and policies to support and promote the effective applications of information technology within state government as a means of saving money, increasing employee productivity, and improving state services to the public, including electronic public access to information of the Commonwealth;

(d) Developing, implementing, and managing strategic information technology directions, standards, and enterprise architecture, including implementing necessary management processes to assure full compliance with those directions, standards, and architecture. This specifically includes, but is not limited to, directions, standards, and architecture related to the privacy and confidentiality of data collected and stored by state agencies;

(e) Promoting effective and efficient design and operation of all major information resources management processes for executive branch agencies, including improvements to work processes;

(f) Developing, implementing, and maintaining the technology infrastructure of the Commonwealth;

(g) Facilitating and fostering applied research in emerging technologies that offer the Commonwealth innovative business solutions;

(h) Reviewing and overseeing large or complex information technology projects and systems for compliance with statewide strategies, policies, and standards, including alignment with the Commonwealth's business goals, investment, and other risk management policies. The *executive director*~~[chief information officer]~~ is authorized to grant or withhold approval to initiate these projects;

(i) Integrating information technology resources to provide effective and supportable information technology applications in the Commonwealth;

(j) Establishing a central statewide geographic information clearinghouse to maintain map inventories, information on current and planned geographic information systems applications, information on grants available for the acquisition or enhancement of geographic information resources, and a directory of geographic information resources available within the state or from the federal government;

(k) Coordinating multiagency information technology projects, including overseeing the development and maintenance of statewide base maps and geographic information systems;

(l) Providing access to both consulting and technical assistance, and education and training, on the application and use of information technologies to state and local agencies;

(m) In cooperation with other agencies, evaluating, participating in pilot studies, and making recommendations on information technology hardware and software;

(n) Providing staff support and technical assistance to the Geographic Information Advisory Council, the Kentucky Information Technology Advisory Council, and the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky; and

(o) Preparing proposed legislation and funding proposals for the General Assembly that will further solidify coordination and expedite implementation of information technology systems.

(2) The *Commonwealth Office of*~~[Governor's Office for]~~ Technology may:

(a) Provide general consulting services, technical training, and support for generic software applications, upon request from a local government, if the *executive director*~~[chief information officer]~~ finds that the requested services can be rendered within the established terms of the federally approved cost allocation plan;

(b) Promulgate administrative regulations in accordance with KRS Chapter 13A necessary for the implementation of KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and 194B.102;

(c) Solicit, receive, and consider proposals from any state agency, federal agency, local government, university, nonprofit organization, private person, or corporation;

(d) Solicit and accept money by grant, gift, donation, bequest, legislative appropriation, or other conveyance to be held, used, and applied in accordance with KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and 194B.102;

(e) Make and enter into memoranda of agreement and contracts necessary or incidental to the performance of duties and execution of its powers, including, but not limited to, agreements or contracts with the United States, other state agencies, and any governmental subdivision of the Commonwealth;

(f) Accept grants from the United States government and its agencies and instrumentalities, and from any source, other than any person, firm, or corporation, or any director, officer, or agent thereof that manufactures or sells information resources technology equipment, goods, or services. To these ends, the *Commonwealth Office of*~~[Governor's Office for]~~ Technology shall have the power to comply with those conditions and execute those agreements that are necessary, convenient, or desirable; and

(g) Purchase interest in contractual services, rentals of all types, supplies, materials, equipment, and other services to be used in the research and development of beneficial applications of information resources technologies. Competitive bids may not be required for:

1. New and emerging technologies as approved by the *executive director*~~[chief information officer]~~ or her or his designee; or

2. Related professional, technical, or scientific services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725.

(3) Nothing in this section shall be construed to alter or diminish the provisions of KRS 171.410 to 171.740 or the authority conveyed by these statutes to the Archives and Records Commission and the Department for Libraries and Archives.

Section 31. KRS 11.509 is amended to read as follows:

(1) To accomplish the work of the *Commonwealth Office of*~~[Governor's Office for]~~ Technology, all organizational units and administrative bodies, as defined in KRS 12.010, and all members of the state postsecondary education system, as defined in KRS 164.001, shall furnish the *Commonwealth Office of*~~[Governor's Office for]~~ Technology necessary assistance, resources, information, records, and advice as required.

(2) The provisions of KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and 194B.102 shall not be construed to grant any authority over the judicial or legislative branches of state government, or agencies thereof, to the *Commonwealth Office of*~~[Governor's Office for]~~ Technology.

(3) The information, technology, personnel, agency resources, and confidential records of the Kentucky Retirement Systems and the Kentucky Teachers' Retirement System shall be excluded from the provisions of KRS 11.501 to 11.517, 45.253, 171.420, 186A.040, 186A.285, and 194B.102 and shall not be under the authority of the *Commonwealth Office of*~~[Governor's Office for]~~ Technology.

Section 32. KRS 11.513 is amended to read as follows:

(1) There is hereby created the Kentucky Information Technology Advisory Council to:

(a) Advise the *executive director of the Commonwealth Office of Technology*~~[chief information officer for the Commonwealth]~~ on approaches to coordinating information technology solutions among libraries, public schools, local governments, universities, and other public entities; and

(b) Provide a forum for the discussion of emerging technologies that enhance electronic accessibility to various publicly funded sources of information and services.

(2) The Kentucky Information Technology Advisory Council shall consist of:

(a) The state budget director or a designee;

(b) The state librarian or a designee;

(c) One (1) representative from the public universities to be appointed by the Governor from a list of three (3) persons submitted by the Council on Postsecondary Education;

(d) Three (3) citizen members from the private sector with information technology knowledge and experience appointed by the Governor;

(e) Two (2) representatives of local government appointed by the Governor;

(f) One (1) representative from the area development districts appointed by the Governor from a list of names submitted by the executive directors of the area development districts;

(g) One (1) member of the media appointed by the Governor;

(h) The executive director of the Kentucky Authority for Educational Television;

(i) The chair of the Public Service Commission or a designee;

(j) Two (2) members of the Kentucky General Assembly, one (1) from each chamber, selected by the Legislative Research Commission;

(k) One (1) representative of the Administrative Office of the Courts;

(l) One (1) representative from the public schools system appointed by the Governor;

(m) One (1) representative of the Kentucky Chamber of Commerce; and

(n) The *executive director of the Commonwealth Office of Technology*~~[chief information officer for the Commonwealth]~~.

(3) Appointed members of the council shall serve for a term of two (2) years. Members who serve by virtue of an office shall serve on the council while they hold the office.

(4) Vacancies on the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(5) Members shall receive no compensation but shall receive reimbursement for actual and necessary expenses in accordance with travel and subsistence requirements established by the Finance and Administration Cabinet.

Section 33. KRS 11.515 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council to advise the *executive director of the Commonwealth Office of Technology*~~[chief information officer]~~ on issues relating to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of twenty-six (26) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretaries of the Cabinet for Health Services and of the Cabinet for Families and Children or their designees;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the *Finance and Administration*~~[Revenue]~~ Cabinet or his designee;
5. The *executive director of the Commonwealth Office of Technology*~~[chief information officer]~~ or her or his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department for Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;
13. The Commissioner of the Department of Agriculture or his designee;
14. The secretary of the Public Protection and Regulation Cabinet or his designee;
15. The secretary of the Tourism Development Cabinet or his designee;
16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;

17. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;

18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;

19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;

20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;

21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;

22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and

23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The *chair shall be appointed by the Governor*~~[council shall select from its membership a chairman and any other officers it considers essential]~~. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that have, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have, directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 34. KRS 11.5161 is amended 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 *executive director of the Commonwealth Office of Technology*~~[chief information officer]~~ regarding strategic wireless initiatives to achieve public safety voice and data communications interoperability.

Section 35. KRS 11.5163 is amended to read as follows:

(1) The *executive director*~~[chief information officer]~~ shall establish and implement a statewide public safety interoperability plan. This plan shall include the development of required architecture and standards that will insure that new or upgraded Commonwealth public safety communications systems will interoperate. The Kentucky Wireless Interoperability Executive Committee shall be responsible for the evaluation and recommendation of all wireless communications architecture, standards, and strategies. The *executive director*~~[chief information officer]~~ shall provide direction, stewardship, leadership, and general oversight of information technology and information resources. The *executive director*~~[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 and local governments. All state agencies in the Commonwealth shall present all project plans for primary wireless public safety voice or data communications systems for review and recommendation by the committee, and the committee shall forward the plans to the *executive director*~~[chief information]~~ officer for final approval. Local government entities shall present project plans for primary wireless public safety voice or data communications systems for review and recommendation by the Kentucky Wireless Interoperability Executive Committee.

(3) The committee shall develop funding and support plans that provide for the maintenance of and technological upgrades to the public safety shared infrastructure, and shall make recommendations to the *executive director*~~[chief information officer]~~, the Governor's Office for Policy and Management, and the General Assembly.

(4) The *executive director*~~[chief information officer]~~ shall examine the project plans for primary wireless public safety voice or data communications systems of state agencies as required by subsection (2) of this section, and shall determine whether they meet the required architecture and standards for primary wireless public safety voice or data communications systems.

(5) 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 *executive director*~~[chief information officer]~~ who shall serve as chair;

(b) The executive director of the Office *of*~~[for]~~ Infrastructure Services, *Commonwealth Office of*~~[Governor's Office for]~~ Technology;

(c) The *executive director of the Office of the 911 Coordinator*~~[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 Division 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.

(6) 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.

(7) 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.

(8) The committee shall be attached to the *Commonwealth Office of*~~[Governor's Office for]~~ Technology for administrative purposes only. Members shall not be paid, and shall not be reimbursed for travel expenses.

(9) 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.

(10) The committee may establish additional working groups as determined by the committee.

Section 36. KRS 11.517 is amended to read as follows:

(1) The Geographic Information Advisory Council's duties shall include the following:

(a) Overseeing the development and adoption of policies and procedures related to geographic information and geographic information systems;

(b) Overseeing the development of a strategy for the implementation and funding of a statewide base map and geographic information system;

(c) Overseeing the development and recommending standards on geographic information and geographic information systems for inclusion in the statewide architecture;

(d) Overseeing the development and delivery of a statewide geographic information plan and annually reporting to the Governor, the General Assembly, the Judicial Branch, and the *executive director of the Commonwealth Office of Technology*~~[chief information officer]~~;

(e) Overseeing the development of the geographic information systems training and education plan;

(f) Overseeing the assessment of state agency plans for geographic information systems standards compliance;

(g) Overseeing the development of operating policies and procedures for the management of the council and any standing or ad hoc committees and associated advisory groups;

(h) Promoting collaboration and the sharing of data and data development, as well as other aspects of geographic information systems; and

(i) Overseeing the implementation of a pilot project to study the advantages and resources of geographic information system technology.

(2) The *Division*~~[Office]~~ of Geographic Information shall provide necessary staff support services to the council. All cabinets, departments, divisions, agencies, and officers of the Commonwealth shall furnish the council necessary assistance, resources, information, records, or advice as it may require to fulfill its duties.

Section 37. KRS 11.550 is amended to read as follows:

(1) The Telehealth Board is created and placed for administrative purposes under the *Commonwealth Office of*~~[Governor's Office for]~~ Technology. This nine (9) member board shall consist of the:

(a) Chancellor, or a designee, of the medical school at the University of Kentucky;

(b) Chancellor, or a designee, of the medical school at the University of Louisville;

(c) Commissioner, or a designee, of the Department for Public Health;

(d) *Executive director*~~[Chief information officer]~~, or a designee, of the *Commonwealth Office of*~~[Governor's Office for]~~ Technology; and

(e) Five (5) members at large, appointed by the Governor, who are health professionals or third parties as those terms are defined in KRS 205.510. To ensure representation of both groups, no more than three (3) health professionals or two (2) third parties shall be members of the board at the same time. These members shall serve a term of four (4) years, may serve no more than two (2) consecutive terms, and shall be reimbursed for their costs associated with attending board meetings.

(2) The members shall elect a chair and hold bimonthly meetings or as often as necessary for the conduct of the board's business.

(3) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

(a) Establish telehealth training centers at the University of Kentucky, University of Louisville, the pediatric-affiliated hospitals at the University of Kentucky and the University of Louisville, and one (1) each in western Kentucky and eastern Kentucky, with the sites to be determined by the board;

(b) Develop a telehealth network, to coordinate with the training centers, of no more than twenty-five (25) rural sites, to be established based on the availability of funding and in accordance with criteria set by the board. In addition to these rural sites, the board may identify, for participation in the telehealth network, ten (10) local health departments, five (5) of which shall be administered by the University of Kentucky and five (5) of which shall be administered by the University of Louisville, and any other site that is operating as a telemedicine or telehealth site and that demonstrates its capability to follow the board's protocols and standards;

(c) Establish protocols and standards to be followed by the training centers and rural sites; and

(d) Maintain the central link for the network with the Kentucky information highway.

(4) The board shall, following consultation with the *Commonwealth Office of*~~[Governor's Office for]~~ Technology, recommend the processes and procedures for the switching and running of the telehealth network.

(5) The University of Kentucky and the University of Louisville shall report semiannually to the Interim Joint Committee on Health and Welfare on the following areas as specified by the board through an administrative regulation promulgated in accordance with KRS Chapter 13A.

(a) Data on utilization, performance, and quality of care;

(b) Quality assurance measures, including monitoring systems;

(c) The economic impact on and benefits to participating local communities; and

(d) Other matters related to telehealth at the discretion of the board.

(6) The board shall receive and dispense funds appropriated for its use by the General Assembly or obtained through any other gift or grant.

Section 38. KRS 15.060 is amended to read as follows:

Upon written request of the *Department of* Revenue~~[Cabinet]~~, the Attorney General shall:

(1) With the assistance of the Auditor of Public Accounts and the *Department of* Revenue~~[Cabinet]~~, investigate the condition of any unsatisfied claim, demand, account, and judgment in favor of the Commonwealth.

(2) When he believes that any fraudulent, erroneous or illegal fee bill, account, credit, charge or claim has been erroneously or improperly approved, allowed or paid out of the Treasury to any person, institute the necessary actions to recover the same. To this end he may employ assistants and experts to assist in examining the fee bills, accounts, settlements, credits and claims, and the books, records and papers of any of the officers of the Commonwealth.

(3) Institute the necessary actions to collect and cause the payment into the Treasury of all unsatisfied claims, demands, accounts and judgments in favor of the Commonwealth, except where specific statutory authority is given the *Department of* Revenue~~[Cabinet]~~ to do so.

(4) Comply with KRS 48.005, if any funds of any kind or nature whatsoever are recovered by or on behalf of the Commonwealth, in any legal action, including an ex rel. action in which the Attorney General has entered an appearance or is a party under statutory or common law authority.

Section 39. KRS 15.105 is amended to read as follows:

(1) The Attorney General, with the approval of the head of the cabinet involved, shall appoint assistant attorneys general for the Transportation Cabinet *and*~~[,]~~ the Finance and Administration Cabinet~~[, and the Revenue Cabinet]~~.

(2) The assistant attorneys general and additional attorneys provided for in subsection (1) of this section shall each be a person admitted to the practice of law by the Supreme Court of this Commonwealth and shall qualify by taking the oath of office. They shall be paid out of the appropriation or other funds of the respective agency to which they are assigned.

Section 40. KRS 15A.040 is amended to read as follows:

(1) The Criminal Justice Council shall advise and recommend to the Governor and the General Assembly policies and direction for long-range planning regarding all elements of the criminal justice system. The council shall review and make written recommendations on subjects including but not limited to administration of the criminal justice system, the rights of crime victims, sentencing issues, capital litigation, a comprehensive strategy to address gangs and gang problems, and the Penal Code. Recommendations for these and all other issues shall be submitted to the Governor and the Legislative Research Commission at least six (6) months prior to every regular session of the Kentucky General Assembly. The council shall:

(a) Make recommendations to the justice secretary with respect to the award of state and federal grants and ensure that the grants are consistent with the priorities adopted by the Governor, the General Assembly, and the council;

(b) Conduct comprehensive planning to promote the maximum benefits of grants;

(c) Develop model criminal justice programs;

(d) Disseminate information on criminal justice issues and crime trends;

(e) Work with community leaders to assess the influence of gangs and the problems that gangs cause for local communities, assist local communities in mobilizing community resources to address their problems, sponsor multidisciplinary training to help communities focus on proven strategies to address gang problems, and conduct an ongoing assessment of gang problems in local communities;

(f) Recommend any modifications of law necessary to insure that the laws adequately address problems identified in local communities relating to gangs;

(g) Provide technical assistance to all criminal justice agencies;

(h) Review and evaluate proposed legislation affecting criminal justice; and

(i) All reports and proposed legislation shall be presented to the Interim Joint Committee on Judiciary not later than July 1 of the year prior to the beginning of each regular session of the General Assembly.

(2) Membership of the Criminal Justice Council shall consist of the following:

(a) The secretary of the Justice Cabinet or his designee;

(b) The director of the Administrative Office of the Courts or his designee;

(c) The Attorney General or his designee;

(d) Two (2) members of the House of Representatives as designated by the Speaker of the House;

(e) Two (2) members of the Senate as designated by the President of the Senate;

(f) A crime victim, as defined in KRS Chapter 346, to be selected and appointed by the Governor;

(g) A victim advocate, as defined in KRS 421.570, to be selected and appointed by the Governor;

(h) A Kentucky college or university professor specializing in criminology, corrections, or a similar discipline to be selected and appointed by the Governor;

(i) The public advocate or his designee;

(j) The president of the Kentucky Sheriffs' Association;

(k) The commissioner of state police or his designee;

(l) A person selected by the Kentucky State Lodge of the Fraternal Order of Police;

(m) The president of the Kentucky Association of Chiefs of Police;

(n) A member of the Prosecutors Advisory Council as chosen by the council;

(o) The Chief Justice or a justice or judge designated by him;

(p) One (1) member of the Kentucky Association of Criminal Defense Lawyers, appointed by the president of the organization;

(q) One (1) member of the Kentucky Jailers' Association appointed by the president of the organization;

(r) One (1) member of the Circuit Clerks' Association;

(s) Three (3) criminal law professors, one each from the University of Kentucky College of Law, the Louis D. Brandeis School of Law at the University of Louisville, and the Salmon P. Chase College of Law at Northern Kentucky University, to be selected and appointed by the Governor;

(t) One (1) District Judge, designated by the Chief Justice;

(u) One (1) Circuit Judge, designated by the Chief Justice;

(v) One (1) Court of Appeals Judge, designated by the Chief Justice;

(w) One (1) representative from an organization dedicated to restorative principles of justice involving victims, the community, and offenders;

(x) One (1) individual with a demonstrated commitment to youth advocacy, to be selected and appointed by the Governor;

(y) The commissioner of the Department of Juvenile Justice or his designee;

(z) The commissioner of the Department of Corrections, or his designee;

(aa) The commissioner of the Department of Criminal Justice Training or his designee; and

(ab) The *executive director of the Commonwealth Office of Technology*~~[Governor's chief information officer]~~.

(3) The secretary of justice shall serve ex officio as chairman of the council. Each member of the council shall have one (1) vote. Members of the council shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties.

(4) The council shall meet at least once every three (3) months.

(5) The council may hold additional meetings:

(a) On the call of the chairman;

(b) At the request of the Governor to the chairman; or

(c) At the written request of the members to the chairman, signed by a majority of the members.

(6) Two-thirds (2/3) members of the council shall constitute a quorum for the conduct of business at a meeting.

(7) Failure of any member to attend two (2) meetings within a six (6) month period shall be deemed a resignation from the council and a new member shall be named by the appointing authority.

(8) The council is authorized to establish committees and appoint additional persons who may not be members of the council as necessary to effectuate its purposes, including but not limited to:

(a) Uniform Criminal Justice Information System committee;

(b) Committee on sentencing; and

(c) Penal Code committee.

(9) The council's administrative functions shall be performed by a full-time executive director, who shall also serve as the executive director of the office of the Criminal Justice Council, appointed by the secretary of the Justice Cabinet and supported by the administrative, clerical, and other staff as allowed by budgetary limitations and as needed to fulfill the council's role and mission and to coordinate its activities.

Section 41. KRS 16.220 is amended to read as follows:

(1) Subject to the duty to return confiscated firearms to innocent owners pursuant to KRS 500.090, all firearms confiscated by the Kentucky State Police and not retained for official use pursuant to KRS 500.090 shall be sold at public auction to federally licensed firearms dealers holding a license appropriate for the type of firearm sold. The Kentucky State Police shall transfer firearms that are to be sold to the Department of Finance, Division of Surplus *Properties*~~[Property]~~, for sale. Proceeds of the sale shall be transferred to the account of the Department for Local Government for use as provided in subsection (3) of this section. Prior to the sale of any firearm, the Kentucky State Police shall make an attempt to determine if the firearm to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law.

(2) The Kentucky State Police shall receive firearms and ammunition confiscated by or abandoned to every law enforcement agency in Kentucky. The Kentucky State Police shall dispose of the firearms received in the manner specified in subsection (1) of this section. However, firearms which are not retained for official use, returned to an innocent lawful owner, or transferred to another government agency or public museum shall be sold as provided in subsections (1) and (3) of this section.

(3) The proceeds of firearms sales shall be utilized by the Department for Local Government to provide grants to city, county, charter county, and urban-county police departments, university safety and security departments organized pursuant to KRS 164.950 and sheriff's departments for the purchase of body armor for sworn peace officers of those departments and service animals, as defined in KRS 525.010, of those departments or for the purchase of firearms or ammunition. Body armor purchased by the department receiving grant funds shall meet or exceed the standards issued by the National Institute of Justice for body armor. No police or sheriff's department shall apply for a grant to replace existing body armor unless that body armor has been in actual use for a period of five (5) years or longer.

(4) The Kentucky State Police may transfer a machine gun, short-barreled shotgun, short-barreled rifle, silencer, pistol with a shoulder stock, any other weapon, or destructive device as defined by the National Firearms Act which is subject to registration under the National Firearms Act, and is not properly registered in the national firearms transfer records for those types of weapons, to the Bureau of Alcohol, Tobacco, and Firearms of the United States Department of the Treasury, after a reasonable attempt has been made to transfer the firearm to an eligible state or local law enforcement agency or to an eligible museum and no eligible recipient will take the firearm or weapon. National Firearms Act firearms and weapons which are properly registered and not returned to an innocent lawful owner or retained for official use as provided in this section shall be sold to properly licensed dealers under subsection (3) of this section.

Section 42. KRS 17.131 is amended to read as follows:

(1) There is hereby established the Kentucky Unified Criminal Justice Information System, referred to in this chapter as the "system." The system shall be a joint effort of the criminal justice agencies and the courts. Notwithstanding any statutes, administrative regulations, and policies to the contrary, if standards and technologies other than those set by the *Commonwealth Office of* ~~[Governor's Office for]~~ Technology are required, the *executive director of the Commonwealth Office of Technology* ~~[Commonwealth's chief information officer]~~ shall review, expedite, and grant appropriate exemptions to effectuate the purposes of the unified criminal justice information system. Nothing in this section shall be construed to hamper any public officer or official, agency, or organization of state or local government from furnishing information or data that they are required or requested to furnish and which they are allowed to procure by law, to the General Assembly, the Legislative Research Commission, or a committee of either. For the purposes of this section, "criminal justice agencies" include all departments of the Justice Cabinet, the Unified Prosecutorial System, Commonwealth's attorneys, county attorneys, the Transportation Cabinet, the Cabinet for Health Services, and any agency with the authority to issue a citation or make an arrest.

(2) The program to design, implement, and maintain the system shall be under the supervision of the Uniform Criminal Justice Information System Committee of the Criminal Justice Council. The membership of this committee shall be determined by the council, upon the recommendation of the *executive director of the Commonwealth Office of Technology* ~~[Governor's chief information officer]~~, who shall chair the committee.

(3) The committee shall be responsible for recommending standards, policies, and other matters to the secretary of justice for promulgation of administrative regulations in accordance with KRS Chapter 13A to implement the policies, standards, and other matters relating to the system and its operation.

(4) The committee shall submit recommendations to the Criminal Justice Council and the secretary of justice for administrative regulations to implement the uniform policy required to operate the system. The committee shall implement the uniform policy.

(5) The uniform policy shall include a system to enable the criminal justice agencies and the courts to share data stored in each other's information systems. Initially, the uniform policy shall maximize the use of existing databases and platforms through the use of a virtual database created by network linking of existing databases and platforms among the various departments. The uniform policy shall also develop plans for the new open system platforms before the existing platforms become obsolete.

(6) The committee shall be responsible for recommending to the Criminal Justice Council and the secretary of justice any necessary changes in administrative regulations necessary to implement the system. The committee shall also recommend to the Criminal Justice Council, the Chief Justice, and the secretary of justice recommendations for statutory additions or changes necessary to implement and maintain the system. The secretary shall be responsible for reporting approved statutory recommendations to the Governor, the Chief Justice, the Legislative Research Commission, and appropriate committees of the General Assembly.

(7) The chair of the committee shall report annually to the Criminal Justice Council on the status of the system.

(8) All criminal justice agencies shall follow the policies established by administrative regulation for the exchange of data and connection to the system.

(9) The committee shall review how changes to existing criminal justice agency applications impact the new integrated network. Changes to criminal justice agency applications that have an impact on the integrated network shall be coordinated through and approved by the committee.

(10) Any future state-funded expenditures by a criminal justice agency for computer platforms in support of criminal justice applications shall be reviewed by the committee.

(11) Any criminal justice agency or officer that does not participate in the criminal justice information system may be denied access to state and federal grant funds.

Section 43. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television and the executive director and deputy executive director of the Education Professional Standards Board;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Interim employees;

(q) Officers and members of the state militia;

(r) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(t) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(v) County and Commonwealth's attorneys and their respective appointees;

(w) Chief district engineers and the state highway engineer;

(x) Veterinarians employed as such by the Kentucky Horse Racing Authority;

(y) Employees of the Kentucky Peace Corps;

(z) Employees of the Council on Postsecondary Education;

(aa) *Executive director of the Commonwealth Office of Technology*~~[Chief information officer of the Commonwealth]~~;

(ab) Employees of the Kentucky Commission on Community Volunteerism and Service; and

(ac) Federally funded time-limited employees as defined in KRS 18A.005.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

(7) On August 15, 2000, all certified and equivalent personnel, all unclassified personnel, and all certified and equivalent and unclassified vacant positions in the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B personnel system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. The personnel officers who administer the personnel systems under KRS Chapter 151B and KRS Chapter 18A shall exercise the necessary administrative procedures to effect the change in personnel authority. No certified or equivalent employee in the Department for Adult Education and Literacy shall suffer any penalty in the transfer.

(8) On August 15, 2000, secretaries and assistants attached to policymaking positions in the Department for Technical Education and the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. No employee shall suffer any penalty in the transfer.

Section 44. KRS 29A.040 is amended to read as follows:

(1) A list of all persons over the age of eighteen (18) and holding valid driver's licenses which were issued in the county, of the names and addresses of all persons filing Kentucky resident individual income tax returns which show an address in the county, and of all persons registered to vote in the county shall constitute a master list of prospective jurors for a county.

(2) The Administrative Office of the Courts shall at least annually acquire an electronic copy of the driver's license list from the Transportation Cabinet, an electronic copy of the tax roll described in subsection (1) of this section from the *Department of* Revenue~~[Cabinet]~~, and an electronic copy of the voter registration lists from

the State Board of Elections. In addition, the Administrative Office of the Courts shall at least annually acquire a listing of deceased persons from the Department of Vital Statistics. The Transportation Cabinet, the *Department of* Revenue~~[Cabinet]~~, the State Board of Elections, and the Department of Vital Statistics and those public officers or employees having custody, possession, or control of any of the lists required under this section shall annually furnish a copy of the list to the Administrative Office of the Courts without charge.

(3) The Administrative Office of the Courts shall merge the lists required by subsections (1) and (2) of this section in a manner designed to create an accurate listing of all persons eligible for jury service. The Administrative Office of the Courts may purge names from the master list upon reasonable evidence of death, change of state residence, change of county residence, or any other reason causing a person to be ineligible for jury service as found in KRS 29A.080.

(4) Any person who comes into possession of the Kentucky income tax names and addresses as provided in this section shall be bound by the confidentiality provisions of KRS 131.190.

Section 45. KRS 40.540 is amended to read as follows:

(1) If a claim is approved by the administrator or finally approved upon resort to the board of review, the administrator shall promptly certify to the secretary of the Finance and Administration Cabinet the names and addresses of persons found entitled to be paid, as shown in the application, and the amount payable to each.

(a) A copy of each such certificate shall be sent to the *commissioner of the Department of Revenue*~~[secretary of the Revenue Cabinet]~~, who shall promptly ascertain from the records of his agency whether any person proposed to be paid a bonus is delinquent in the payment of any tax liability to the Commonwealth. No delinquency shall be deemed to exist as to any asserted tax liability which is the subject of a bona fide dispute. If any delinquency be found to exist, the *commissioner*~~[secretary]~~ of revenue shall, within three (3) working days after this receipt of the certificate, furnish the details thereof to the secretary of finance and administration; and if no advice of tax delinquency is received by the secretary of finance and administration before the end of the fourth working day after his receipt of certification from the administrator, he shall, for the purposes of KRS 40.410 to 40.560, conclusively presume that no delinquency of tax liability to the Commonwealth exists, but such presumption shall apply only to the existence or absence of a set-off by the Commonwealth against a certified claim for a bonus, and shall not alter the facts as between the Commonwealth and any taxpayer.

(b) If no advice of tax delinquency is received within such allowed time, the secretary of finance and administration may approve payment in accordance with the certificate of the administrator, and may immediately draw a warrant on the State Treasury for a check in payment, except that no warrant shall be drawn by the secretary until sufficient funds have become available to pay the bonus authorized by KRS 40.410 to 40.560.

(c) Upon receipt of such warrant the State Treasurer shall issue a check in accordance therewith payable from funds made available for payment of the bonus authorized by KRS 40.410 to 40.560, and the same shall promptly be mailed to the payee thereof at the address shown in the certificate.

(2) If the secretary of finance and administration shall, within the allowed time, receive advice from the *commissioner*~~[secretary]~~ of revenue of the existence of a delinquency on the part of any person having an approved claim for a bonus, as to any tax liability to the Commonwealth, the secretary of finance and administration shall note the same on the certificate of the administrator, withhold payment, and forthwith send to the claimant by registered mail a notice of the asserted delinquency, and the amount thereof, and that it is proposed that the same be set off against the bonus payment.

(a) If the secretary of finance and administration receives no protest in his office within ten (10) working days after recording such notice, he shall conclusively presume that the proposed set-off is just, shall apply the amount thereof in reduction or extinguishment of the payment certified by the administrator, and shall advise the *commissioner*~~[secretary]~~ of revenue of the amount set off against the bonus, which advice shall be noted by the *commissioner*~~[secretary]~~ of revenue on the records of his office as a credit upon the delinquent tax liability.

(b) If the tax set-off does not consume the entire amount of the bonus as certified by the administrator, the secretary shall draw a warrant upon the State Treasury for a check in the amount of the remainder, and upon receiving such check from the State Treasurer, shall send the same, together with advice of the set-off, by mail, to the payee at the address shown in the certificate of the director.

(3) If the secretary of finance and administration receives from the claimant a protest of the asserted tax delinquency, within the allowed time, the secretary shall withhold approval for payment, and shall refer the protest to the *commissioner*~~[secretary]~~ of revenue for disposition.

(4) If a tax set-off is made, and the claimant shall assert error with regard thereto, the exclusive remedy shall be by seeking refund from the *commissioner*~~[secretary]~~ of revenue.

Section 46. KRS 41.070 is amended to read as follows:

(1) Unless otherwise expressly provided by law, no receipts from any source of state money or money for which the state is responsible shall be held, used, or deposited in any personal or special bank account, temporarily or otherwise, by any agent or employee of any budget unit, to meet expenditures or for any other purpose. All receipts of any character of any budget unit, all revenue collected for the state, and all public money and dues to the state shall be deposited in state depositories in the most prompt and cost-efficient manner available. However in the case of state departments or agencies located outside Frankfort, and all state institutions, the Finance and Administration Cabinet may permit temporary deposits to be made to the accounts maintained by the agency, department, or institution in a bank which has been designated as a depository for state funds for a period not to exceed thirty (30) days, and may require that the money be forwarded to the State Treasury at the time and in the manner and form prescribed by the cabinet. Nothing in this section shall be construed as authorizing any representative of any agency, department, or institution to enforce or cash, even for the purpose of a deposit, any check or other instrument of value payable to the Commonwealth or any agency thereof.

(2) Each agency depositing its receipts directly with the State Treasurer shall do so in the manner approved by the State Treasurer as agent in charge of public fund deposits.

(3) The *Department of* Revenue~~[Cabinet]~~ may deposit receipts to the credit of the State Treasury directly with a depository designated by the Treasurer and utilized by the Commonwealth for its primary banking services. The State Treasurer, with the approval of the Finance and Administration Cabinet, may authorize other agencies to deposit receipts directly with a depository designated by the Treasury to the credit of the State Treasury if the Treasurer prescribes the manner in which the deposit is to be made, and the forms and reports to be filed with the Treasury Department. The Finance and Administration Cabinet shall prescribe the forms and reports to be filed with it when this type of deposit is made.

(4) Each department, agency, or other budget unit which receives funds to be deposited into the State Treasury shall maintain records to report adequately each amount received, from whom received, and date received. Agency records shall be easily reconcilable with the information forwarded to the State Treasurer.

Section 47. KRS 41.360 is amended to read as follows:

(1) Where any officer or employee of the state government or of any agency of the state government has authorized the State Treasurer to deduct from his compensation as such officer or employee a sum or sums for the purchase of United States Series E savings bonds, and thereafter, for any cause, has departed from such office or employment leaving unclaimed in the hands of the State Treasurer a sum arising from such deduction not equal to the amount for which such a bond may be purchased, the State Treasurer shall, within ninety (90) days after the date of the last deduction, mail to such officer or employee, at his last-known address as shown on the records of the Personnel Cabinet, a notice stating the sum held by the State Treasurer for such officer or employee, and requesting that he make claim for the same within six (6) months thereafter. A duplicate of such notice, addressed to the officer or employee, shall at the same time be delivered to the state agency of which the person was an officer or employee. If, at the expiration of six (6) months from the date of mailing the letter, the officer or employee has not made claim for the sum due him, the sum shall, as of July 1 following the expiration of such six-months' period, be presumed abandoned.

(2) On or before September 1 of each year the State Treasurer shall report to the *Department of* Revenue~~[Cabinet]~~, in duplicate, a list of the sums presumed to be abandoned as of the preceding July 1, giving the name of the officer or employee and his last-known address. The *Department of* Revenue~~[Cabinet]~~ shall cause the report to be posted and published as provided in KRS 393.110. If, by November 15 following such posting and publication, the sums involved have not been claimed, the State Treasurer shall place the sums to the credit of the general fund in the State Treasury and shall report that fact to the *Department of* Revenue~~[Cabinet]~~. Thereafter such sums shall have the same status as other property turned over to the *Department of* Revenue~~[Cabinet]~~ as provided in KRS 393.110, and the rights of any person to make claim for the same shall rest upon

the same principles as the rights of other claimants of property presumed to be abandoned under the provisions of KRS Chapter 393.

Section 48. KRS 42.005 is amended to read as follows:

As used in KRS 42.010, unless the context requires otherwise:

(1) "Department" means *a*~~[that]~~ basic unit of administrative organization of *the Finance and Administration Cabinet*~~[state government, by whatever name called,]~~ designated by statute or by statutorily authorized executive action as a "department." *A department may contain offices, divisions, or both, that report to it*;

(2) *"Office" means a basic unit of administrative organization of the Finance and Administration Cabinet. An office may or may not report directly to the secretary of the Finance and Administration Cabinet. An office may contain offices, divisions, or both, that report to it;*

(3) "Division" means a major branch of a department, *or office* established by statute or by statutorily authorized administrative action;

(4)~~[(3)]~~ "Administrative body" includes authority, board, bureau, interstate compact, commission, committee, conference, council,~~[office]~~ and any other form or organization in the executive branch of government, but does not include *"office,"* "department," "program cabinet" or "division";

(5)~~[(4)]~~ "Program cabinet" means a group of departments, or departments and commissions, *or departments and offices*, or other administrative bodies, designated by statute or statutorily authorized executive action as a "program cabinet."

Section 49. KRS 42.010 is amended to read as follows:

As used in *Sections 9, 10, and 17 of this Act*~~[KRS 42.023 to 42.025]~~, unless the context requires otherwise, "state agency" means any state administrative body, department or division as defined by KRS 42.005.

Section 50. KRS 42.016 is amended to read as follows:

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

(1) State Property and Buildings Commission;

(2) ~~[Kentucky Pollution Abatement Authority;~~

~~(3)]~~Kentucky Savings Bond Authority;

(3)~~[(4)]~~ County Officials Compensation Board;

(4)~~[(5)]~~ Kentucky Turnpike Authority;

(5)~~[(6)]~~ State Investment Commission;

(6)~~[(7)]~~ Kentucky Housing Corporation;

~~[(8) Governmental Services Center;]~~

(7)~~[(9)]~~ Kentucky Tobacco Settlement Trust Corporation;

(8)~~[(10)]~~ Kentucky River Authority; and

(9)~~[(11)]~~ Eastern Kentucky Exposition Center Corporation.

Section 51. KRS 42.018 is amended to read as follows:

~~[(1) The Office of Management and Budget established within the Office of the Secretary by KRS 42.013 shall be responsible for the fiscal, personnel, and payroll functions of the cabinet.~~

~~(2)]~~The Office of Capital Plaza Operations~~[established by KRS 42.014]~~ shall:

(1)~~[(a)]~~ Be responsible for the operation of the Capital Plaza Civic Center and related facilities in Frankfort, Kentucky; and

(2)~~[(b)]~~ Provide administrative support to the Capital Development Committee created by KRS 45.001.

Section 52. KRS 42.409 is amended to read as follows:

As used in KRS 42.410 and 45.760, unless the context requires otherwise:

(1) "State total personal income" means the measure of all income received by or on behalf of persons in the Commonwealth, as most recently published in the Survey of Current Business by the United States Department of Commerce, Bureau of Economic Analysis.

(2) "Estimated state total personal income" means the personal income figure used by the Governor's Office for Economic Analysis to generate final detailed revenue estimates.

(3) "Total revenues" means revenues credited to the general fund and the road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account from which debt service is expended.

(4) "Anticipated total revenues" means final estimates of revenues, as provided for in KRS 48.120(2), projected for the general fund and the road fund, as well as any restricted agency fund account from which debt service is expended.

(5) "Available revenues" means revenues credited to the general fund and the road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account from which debt service is expended, minus any statutorily dedicated receipts of the respective funds.

(6) "Anticipated available revenues" means final estimates of revenues, as provided for in KRS 48.120(2), projected for the general fund and the road fund, as well as any restricted agency fund account from which debt service is expended, minus any statutorily dedicated receipts of the respective funds.

(7) "Total assessed value of property" means state total net assessed value of property for taxes due, as obtained from the *Department of* Revenue~~[Cabinet]~~.

(8) "Per capita" means per unit of population, where population figures are the most recent available from the University of Louisville, Kentucky State Data Center.

(9) "Appropriation-supported debt service" means the amount of an appropriation identified to be expended for debt service purposes in the executive budget recommendation, and the amount of an appropriation expended for debt services in a completed fiscal year.

(10) "Appropriation-supported debt" means the outstanding principal of bonds issued by all state agencies and all individuals, agencies, authorities, boards, cabinets, commissions, corporations, or other entities of, or representing the Commonwealth with the authority to issue bonds, and for which debt service is appropriated by the General Assembly.

(11) "Nonappropriation-supported debt" means the outstanding principal of bonds issued by all state agencies and all individuals, agencies, authorities, boards, cabinets, commissions, corporations, or other entities of, or representing the Commonwealth with the authority to issue bonds, and for which debt service is not appropriated by the General Assembly.

(12) "Statutorily dedicated receipts" means revenues credited to the general fund and road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account, which are required by an enacted statute to be used for a specific purpose. Statutorily dedicated receipts include, but are not limited to, the following:

(a) Receipts credited to the general fund which are subject to KRS 42.450 to 42.495, KRS 278.130 to 278.150, or KRS 350.139;

(b) Receipts credited to the road fund which are subject to KRS 175.505, KRS 177.320, KRS 177.365 to 177.369, KRS 177.9771 to 177.979, KRS 186.531, or KRS 186.535; and

(c) Receipts credited to a restricted agency fund account in accordance with any applicable statute.

(13) "True interest cost" means the bond yield according to issue price without a reduction for related administrative costs, and is the same figure as the arbitrage yield calculation described in the United States Tax Reform Act of 1986.

Section 53. KRS 42.455 is amended to read as follows:

(1) There is established within the Department for Local Government a Local Government Economic Assistance Program to consist of a system of grants to local governments to improve the environment for new industry and to improve the quality of life for the residents.

(2) Grants obtained under this program shall be used for priority expenditures. Thirty percent (30%) of all moneys in the fund shall be spent on the coal haul road system as described in subsection (7) of this section. The remaining seventy percent (70%) of the fund shall be spent on priority categories limited to the following, but in no event shall grants obtained under this program be used for expenses related to administration of government:

(a) Public safety, including law enforcement, fire protection, ambulance service, and other related services;

(b) Environmental protection, including sewage disposal, sanitation, solid waste, and other related programs;

(c) Public transportation, including mass transit systems, streets, and roads;

(d) Health;

(e) Recreation;

(f) Libraries and educational facilities;

(g) Social services for the poor, the elderly, and individuals with disabilities;

(h) Industrial and economic development;

(i) Vocational education;

(j) Workforce training; and

(k) Secondary wood industry development.

(3) The use of entitlement funds for repayment of debt as related to long-term bond issues is permissible as long as the revenue from the bond issues is expended on priority categories.

(4) Grants obtained under this program may be used as local portion to secure federal programs as long as program expenditures are in the priority category area. Interest earned on funds received by local units of government shall be considered available for use by the local unit of government in the priority expenditure categories.

(5) The Department for Local Government shall be responsible for the promulgation of rules and regulations necessary to implement the grants programs authorized by this section.

(6) The Department for Local Government shall assure that a public hearing is held on the expenditure of funds received under KRS 42.450 to 42.495. Advertisement of the public hearing shall be published at least once but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing. The department shall submit an annual report to the Governor indicating how the grants were used and an evaluation of the program's effectiveness in improving the economy of the units of government receiving assistance.

(7) On or before August 15, 1980, and each year thereafter, the Transportation Cabinet shall publish and furnish to the Department for Local Government a directory, including supporting maps and other documents, designating the official state coal road system in coal impact and coal producing counties which shall include all public highways, roads, and streets over which quantities of coal, sufficient to significantly affect the condition and state of repair of highways, roads, and streets, have been transported in the immediately preceding fiscal year. The cabinet shall further publish the total county mileage of the official state coal road system and the total ton/miles within each coal impact and coal producing county for said preceding fiscal year.

(8) Every person shipping or transporting coal, and every carrier for hire or common carrier hauling coal over the public highways, roads, and streets shall file with the Transportation Cabinet such information and at intervals as the department shall designate by regulation duly adopted for the purpose of identifying those highways, roads, and streets comprising the coal haul road system and the quantities of coal transported thereon, in order that the cabinet can accurately calculate total ton/miles within each coal impact and coal producing county.

(9) The *Department of* Revenue~~[Cabinet]~~ shall make available to the Transportation Cabinet coal severance and processing tax data for use in verifying and supplementing the information furnished under the provisions of subsection (8) of this section. The information shall be furnished in such a manner as to conceal the identity of individual taxpayers; if the data cannot be furnished without revealing the identity of individual taxpayers, it shall be withheld.

Section 54. KRS 42.500 is amended to read as follows:

(1) There shall be a State Investment Commission composed of the Governor who shall be chairman; the State Treasurer who shall be vice chairman and serve as chairman in the absence of the Governor; the secretary of the Finance and Administration Cabinet; and two (2) persons appointed by the Governor.

(2) The individuals appointed by the Governor shall be selected as follows: one (1) to be selected from a list of five (5) submitted to the Governor by the Kentucky Bankers Association, and one (1) to be selected from a list of five (5) submitted to the Governor by the Independent Community Bankers Association.

(3) The State Investment Commission shall meet at least quarterly to review investment performance and conduct other business. This provision shall not prohibit the commission from meeting more frequently as the need arises.

(4) The Governor, State Treasurer, and secretary of the Finance and Administration Cabinet shall each have the authority to designate, by an instrument in writing over his or her signature and filed with the secretary of the commission as a public record of the commission, an alternate with full authority to:

(a) Attend in the member's absence, for any reason, any properly convened meeting of the commission; and

(b) Participate in the consideration of, and vote upon, business and transactions of the commission.

Each alternate shall be a person on the staff of the appointing member or in the employ of the appointing member's state agency or department.

(5) Any designation of an alternate may, at the appointing member's direction:

(a) Be limited upon the face of the appointing instrument to be effective for only a specific meeting or specified business;

(b) Be shown on the face of the appointing instrument to be a continuing designation, for a period of no more than four (4) years, whenever the appointing member is unable to attend; or

(c) Be revoked at any time by the appointing member in an instrument in writing, over his or her signature, filed with the secretary of the commission as a public record of the commission.

(6) Any person transacting business with, or materially affected by, the business of the commission may accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time and scope of the designation, and, if it is of a continuing nature, whether and when the designation has been revoked. The joint certificate shall be made and delivered to the person requesting it within a reasonable time after it has been requested in writing, with acceptable identification of the business or transaction to which it refers and the requesting person's interest in the business or transaction.

(7) Any three (3) persons who are members of the commission or alternates authorized under subsections (4) and (5) of this section shall constitute a quorum and may, by majority vote, transact any business of the commission. Any three (3) members of the commission may call a meeting.

(8) The provisions of KRS 61.070 shall not apply to members of the commission.

(9) The commission shall have authority and may, if in its opinion the cash in the State Treasury is in excess of the amount required to meet current expenditures, invest any and all of the excess cash in:

(a) Obligations and contracts for future delivery of obligations backed by the full faith and credit of the United States or a United States government agency, including but not limited to:

1. United States Treasury;

2. Export-Import Bank of the United States;

3. Farmers Home Administration;

4. Government National Mortgage Corporation; and

5. Merchant Marine bonds;

(b) Obligations of any corporation of the United States government, including but not limited to:

1. Federal Home Loan Mortgage Corporation;

2. Federal Farm Credit Banks;

a. Bank for Cooperatives;

b. Federal Intermediate Credit Banks; and

c. Federal Land Banks;

3. Federal Home Loan Banks;

4. Federal National Mortgage Association; and

5. Tennessee Valley Authority obligations;

(c) Collateralized or uncollateralized certificates of deposit, issued by banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency or other interest-bearing accounts in depository institutions chartered by this state or by the United States, except for shares in mutual savings banks;

(d) Bankers acceptances for banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(e) Commercial paper rated in the highest category by a nationally recognized rating agency;

(f) Securities issued by a state or local government, or any instrumentality or agency thereof, in the United States, and rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(g) United States denominated corporate, Yankee, and Eurodollar securities, excluding corporate stocks, issued by foreign and domestic issuers, including sovereign and supranational governments, rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(h) Asset-backed securities rated in the highest category by a nationally recognized rating agency; and

(i) Shares of mutual funds, not to exceed ten percent (10%) of the total funds available for investment as described in subsection (9) of this section, each of which shall have the following characteristics:

1. The mutual fund shall be an open-end diversified investment company registered under Federal Investment Company Act of 1940, as amended;

2. The management company of the investment company shall have been in operation for at least five (5) years;

3. At least ninety percent (90%) of the securities in the mutual fund shall be eligible investments pursuant to this section; and

(j) State and local delinquent property tax claims which upon purchase shall become certificates of delinquency secured by interests in real property not to exceed twenty-five million dollars ($25,000,000) in the aggregate. For any certificates of delinquency that have been exonerated pursuant to KRS 132.220(5), the *Department of* Revenue~~[Cabinet]~~ shall offset the loss suffered by the Finance and Administration Cabinet against subsequent local distributions to the affected taxing districts as shown on the certificate of delinquency.

(10) The State Investment Commission shall promulgate administrative regulations for the investment and reinvestment of state funds in shares of mutual funds, and the regulations shall specify:

(a) The long and short term goals of any investment;

(b) The specification of moneys to be invested;

(c) The amount of funds which may be invested per instrument;

(d) The qualifications of instruments; and

(e) The acceptable maturity of investments.

(11) Any investment in obligations and securities pursuant to subsection (9) of this section shall satisfy this section if these obligations are subject to repurchase agreements, provided that delivery of these obligations is taken either directly or through an authorized custodian.

(12) Income earned from investments made pursuant to this section shall accrue to the credit of the investment income account of the general fund, except that interest from investments of excess cash in the road fund shall be credited to the surplus account of the road fund and interest from investments of excess cash in the game and fish fund shall be credited to the game and fish fund, interest earned from investments of imprest cash funds and funds in the trust and revolving fund for each state public university shall be credited to the appropriate institutional account, and interest earned from the investment of funds accumulated solely by means of contributions and gifts shall not be diverted to any purpose other than that stipulated by the donor, when the donor shall have designated the use to which the interest shall be placed. Except as otherwise provided by law, or by the obligations and covenants contained in resolutions and trust indentures adopted or entered into for state bond issues, interest earned from the investment of moneys appropriated to the capital construction accounts, trust and agency accounts, and trust and agency revolving accounts shall accrue to the capital construction investment income account. If the total general fund revenue receipts are less than the total revenue estimates for the general fund under KRS 48.120 and 48.130, the secretary of the Finance and Administration Cabinet, upon the recommendation of the state budget director, may direct the transfer of excess unappropriated capital construction investment income to the general fund investment income account. The amount of the transfer shall not exceed the amount of the shortfall in general fund revenues. If the capital construction investment income is less than that amount appropriated by the General Assembly, the secretary of the Finance and Administration Cabinet may, upon recommendation of the state budget director, direct the transfer of excess unappropriated general fund investment income to the capital construction investment income account. The transfer of general fund investment income revenues to the capital construction investment income account shall be made only when the actual general fund revenues are in excess of the revenue estimates under KRS 48.120 and shall be limited to the amount of the excess general fund revenues. The amount of the transfer shall not exceed the amount of the shortfall in the capital construction fund revenues.

(13) The authority granted by this section to the State Investment Commission shall not extend to any funds that are specifically provided by law to be invested by some other officer or agency of the state government.

(14) The authority granted by this section to the State Investment Commission shall only be exercised pursuant to the administrative regulations mandated by KRS 42.525.

(15) Each member of the State Investment Commission, with the exception of the Governor, shall post bond for his acts or omissions as a member thereof identical in amount and kind to that posted by the State Treasurer.

Section 55. KRS 42.545 is amended to read as follows:

Each agency authorized to issue bonds listed in this section shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the fifteenth of July, showing the receipts, expenditures, trustees, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each agency to the Office of the Controller. The agencies required to report under this section are Eastern Kentucky University; Kentucky State University; Morehead State University; Murray State University; Northern Kentucky University; University of Kentucky; University of Louisville; Western Kentucky University; Kentucky Community and Technical College System; Kentucky Housing Corporation;~~[Kentucky Pollution Abatement Authority;]~~ Kentucky Higher Education Student Loan Corporation; Kentucky School Building Authority; the Turnpike Authority of Kentucky; the State Property and Buildings Commission; Churchill Downs Authority; Kentucky Health and Geriatric Authority; State Fair Board; Department of Fish and Wildlife Resources; Water Resources Authority of Kentucky; and any other agency or instrumentality authorized to issue bonds.

Section 56. KRS 42.560 is amended to read as follows:

(1) There is established in the Treasury of the Commonwealth a trust fund to be known as the "Energy Assistance Trust Fund" referred to in KRS 42.560 to 42.572 as the "trust fund."

(2) The trust fund shall consist of any oil overcharge refunds which become available to the state as a result of litigation for alleged overcharges for crude oil or refined petroleum products sold during the period of time in which federal price controls on such products were in effect, any moneys as may be appropriated by the general fund, and any investment interest earned on the fund.

(3) The fund shall be managed by the state Office of Financial Management *within the Office of the Controller* and all moneys in excess of the amount to be disbursed in a given fiscal year shall be invested to maximize returns. The principal and any interest earnings of the trust fund shall at no time lapse to the general fund.

(4) The trust fund and all accumulated interest shall be disbursed over a period of time not exceeding ten (10) years from February 19, 1988. Interest accumulated during the 1987-88 fiscal year shall immediately be available for disbursement. Fifty thousand dollars ($50,000) of the interest shall be allocated to the Legislative Research Commission for consultant costs for a study of energy conservation and weatherization programs as directed by the 1988 General Assembly. The remainder of the accumulated interest shall be made available to the Cabinet for Families and Children with fifty percent (50%) of the interest allocated to weatherization services to low-income households and fifty percent (50%) of the interest allocated to low-income energy assistance services. The funds to be available for expenditure in any fiscal year shall be appropriated by the General Assembly from the trust fund as provided in KRS 48.300.

Section 57. KRS 42.650 is amended to read as follows:

(1) The *Division*~~[Office]~~ of Geographic Information is hereby established in the Office of *Enterprise Information Technology Policy and Planning within the Commonwealth Office of Technology in*~~[the Secretary of]~~ the Finance and Administration Cabinet.

(2) The *Division*~~[Office]~~ of Geographic Information shall be headed by *a division*~~[an executive]~~ director, whose appointment is subject to KRS 12.050. The *division*~~[executive]~~ director may employ personnel, pursuant to the provisions of KRS Chapter 18A, as required to perform the functions of the office.

(3) The *division*~~[office]~~ may solicit, receive, and consider proposals for funding from any state agency, federal agency, local government, university, nonprofit organization, or private person or corporation. The *division*~~[office]~~ may also solicit and accept money by grant, gift, donation, bequest, legislative appropriation, or other conveyance.

(4) The *division*~~[office]~~ shall:

(a) Establish a central statewide geographic information clearinghouse to maintain map inventories, information on current and planned geographic information systems applications, information on grants available for the acquisition or enhancement of geographic information resources, and a directory of geographic information resources available within the state or from the federal government;

(b) Coordinate multiagency geographic information system projects, including overseeing the development and maintenance of statewide base maps and geographic information systems;

(c) Provide access to both consulting and technical assistance, and education and training, on the application and use of geographic information technologies to state and local agencies;

(d) Maintain, update, and interpret geographic information and geographic information systems standards, under the direction of the council;

(e) Provide geographic information system services, as requested, to agencies wishing to augment their geographic information system capabilities;

(f) In cooperation with other agencies, evaluate, participate in pilot studies, and make recommendations on geographic information systems hardware and software;

(g) Assist the council with review of agency information resource plans and participate in special studies as requested by the council;

(h) Provide staff support and technical assistance to the Geographic Information Advisory Council; and

(i) Prepare proposed legislation and funding proposals for the General Assembly which will further solidify coordination and expedite implementation of geographic information systems.

(5) The *division*~~[office]~~ may promulgate necessary administrative regulations for the furtherance of this section.

Section 58. KRS 43.071 is amended to read as follows:

(1) The Auditor of Public Accounts shall annually audit each county clerk concerning:

(a) All receipts due from the collection of motor vehicle and motorboat registration fees, motor vehicle and motorboat licenses and other receipts due the clerk pertaining to motor vehicles and motorboats as prescribed in KRS Chapters 186, 186A and 235;

(b) All receipts due from the collection of motor vehicle usage tax as prescribed by KRS 138.460; and

(c) All receipts due from the collection of the ad valorem tax on motor vehicles and motorboats as prescribed by KRS 134.800.

These annual audits shall be completed by April 15 of the year following the year to be audited.

(2) The provisions of KRS 43.070 shall not apply to the separate and distinct duties imposed on the Auditor of Public Accounts pursuant to subsection (1) of this section. The audits specified in subsection (1) of this section shall be conducted prior to the audits mandated by KRS 43.070.

(3) Immediately upon completion of each audit, the Auditor of Public Accounts shall prepare a report of his findings noting any indebtedness to the Commonwealth. He shall furnish one (1) copy to the county clerk, one (1) copy to the secretary of the Transportation Cabinet, one (1) copy to the secretary of the *Finance and Administration*~~[Revenue]~~ Cabinet and one (1) copy to the secretary of the Natural Resources and Environmental Protection Cabinet. If the county clerk objects to any findings of indebtedness in the Auditor's report, he shall file a written response with the Auditor within ten (10) days of his receipt of the report. The Auditor shall consider the written response and within thirty (30) days of its receipt issue a final report. If the county clerk wishes to object to any findings of indebtedness contained in the final report, he shall file a request within ten (10) days of his receipt of the final report for a hearing before a three (3) member panel composed of the secretary of transportation or his designee, the *commissioner*~~[secretary]~~ of the *Department of* Revenue~~[Cabinet]~~ or his designee, and the president of the Kentucky County Clerks Association or his designee. The hearing shall be conducted in accordance with the provisions of KRS Chapter 13B. The majority decision of this panel shall be determinative of any indebtedness to the Commonwealth. If the county clerk wishes to appeal the decision of this panel, he shall file the appeal in the Circuit Court for the county where he serves in accordance with KRS Chapter 13B.

Section 59. KRS 44.030 is amended to read as follows:

(1) No money shall be paid to any person on a claim against the state in his own right, or as an assignee of another, when he or his assignor is indebted to the state. The claim, to the extent it is allowed, shall be credited to the account of the person so indebted, and if there is any balance due him after settling the whole demand of the state that balance shall be paid to him.

(2) The Finance and Administration Cabinet shall provide the Cabinet for Families and Children with a quarterly report of all tort claims made against the state by individuals that the Cabinet for Families and Children shall compare with the child support database to match individuals who have a child support arrearage and may receive a settlement from the state.

(3) Each organizational unit and administrative body in the executive branch of state government, as defined in KRS 12.010, and the Court of Justice in the judicial branch of state government shall provide information to the State Treasurer concerning any debt it has referred to the *Department of* Revenue~~[Cabinet]~~ for collection under KRS 45.241.

(4) Each agency and the Court of Justice shall provide information to the State Treasurer concerning any debt referred to the *Department of* Revenue~~[Cabinet]~~ for collection under KRS 45.237.

Section 60. KRS 45.001 is amended to read as follows:

(1) The Capital Development Committee is created. The committee shall ensure the proper coordination of state government initiatives which impact the City of Frankfort and Franklin County government and are unique to the seat of state government.

(2) The committee shall meet at least semiannually at a time and place announced by the chairperson.

(3) The membership of the committee shall consist of the following members or their designees:

(a) The mayor of the city of Frankfort;

(b) The county judge/executive of Franklin County;

(c) The secretary of the Finance and Administration Cabinet;

(d) The secretary of the Tourism Cabinet;

(e) The secretary of the Education, Arts, and Humanities Cabinet;

(f) The commissioner of the Department of Travel Development;

(g) The executive director of the Office of Capital Plaza Operations;

(h) The chairman of the Frankfort/Franklin County Tourist and Convention Commission;

(i) A citizen at large, who is a resident of Franklin County, appointed by the Franklin County judge/executive; and

(j) A citizen at large, who is a resident of Frankfort, appointed by the mayor of the city of Frankfort.

The citizen-at-large members of the committee shall be appointed to a term of four (4) years each.

(4) The Governor shall appoint the chairperson of the committee.

(5) Members of the committee shall serve without compensation.

(6) The Office of Capital Plaza Operations~~[in the Finance and Administration Cabinet]~~ shall provide administrative support to the committee.

Section 61. KRS 45.237 is amended to read as follows:

(1) As used in KRS 45.237 to 45.239:

(a) "Agency" means an organizational unit or administrative body in the executive branch of state government as defined in KRS 12.010;

(b) *"Department"*~~["Cabinet"]~~ means the *Department of* Revenue~~[Cabinet]~~;

(c) "Court of Justice" means the Administrative Office of the Courts, all courts, and all clerks of the courts;

(d) "Improper payment" means a payment made to a vendor, provider, or recipient due to error, fraud, or abuse; and

(e) "Debt" means:

1. A sum certain which has been certified by an agency as due and owing; and

2. For the Court of Justice, "debt" means a legal debt, including any fine, fee, court costs, or restitution due the Commonwealth, which have been imposed by a final sentence of a trial court of the Commonwealth and for which the time permitted for payment pursuant to the provisions of KRS 23A.205(3) or 24A.175(4) has expired.

(2) The Finance and Administration Cabinet shall develop for the executive branch of state government a system of internal controls and preaudit policies and procedures applicable to disbursement transactions for the purpose of prevention and detection of errors or fraud and abuse prior to the issuance of a check or warrant. The initial policies and procedures shall be established and implemented no later than October 1, 2004, and shall focus first on programs or activities that expend the most federal and general fund dollars. The Finance and Administration Cabinet shall develop preaudit procedures that meet the unique needs of each agency.

(3) In establishing these systems of internal control and preaudit policies and procedures, the Finance and Administration Cabinet shall:

(a) Consult with each agency within the executive branch to ascertain its unique fraud risks;

(b) Establish policies and procedures for agency-level oversight of fraud risks, including risk assessment, risk tolerance, and management policies, and fraud-prevention processing controls;

(c) Establish systems and procedures for detecting both unintentional errors and fraudulent misrepresentations that may have occurred in vendor invoices submitted for payment, applications submitted for benefits, claims for refunds of amounts previously paid or withheld, and other disbursements;

(d) Establish systems and procedures for preventing and detecting unintentional errors and the fraudulent disbursement of funds by state government employees in the processing, approving, and paying of invoices, refunds, vouchers, benefit payments, and other disbursements; and

(e) Consult with the state Auditor of Public Accounts, the *Commonwealth Office of*~~[Governor's Office for]~~ Technology, the American Institute of Certified Public Accountants, the Association of Certified Fraud Examiners, law enforcement agencies, or any other entity with knowledge and expertise in the detection and prevention of fraud.

(4) Each agency shall diligently attempt to collect amounts paid to a vendor, provider, or recipient due to error, fraud, or abuse for sixty (60) days after the improper payment is discovered. If the improper payment has not been recovered after sixty (60) days, the agency shall certify the improper payment as a debt of the agency and shall refer all certified debts to the *department*~~[cabinet]~~.

(5) Any funds recovered by an agency within the sixty (60) day collection period allowed under subsection (4) of this section and prior to referral to the *department*~~[cabinet]~~ shall be allocated to the fund from which the improper payment was expended.

(6) Each agency shall submit annual summaries of debts due to error, fraud, or abuse, improper payments discovered, and certified debts referred to the *department*~~[cabinet]~~ to the Legislative Research Commission. These summaries shall include but not be limited to:

(a) Debts owed the Commonwealth that have been identified by the agency, in accordance with the preaudit procedures established under this section, as those resulting from error, fraud, or abuse, of either the payee or the state agency;

(b) The aggregate amount of money collected by the agency on those debts during the sixty (60) day period allowed under subsection (4) of this section; and

(c) The aggregate amount of certified debts that the agency referred to the *department*~~[cabinet]~~.

(7) Each agency shall provide information about each debt due to error, fraud, or abuse that is certified under this section to the State Treasurer for the Treasurer's action under KRS 44.030(1).

Section 62. KRS 45.238 is amended to read as follows:

(1) Debts that are certified by an agency as provided in KRS 45.237 shall be referred to the *department*~~[cabinet]~~ for collection. The *department*~~[cabinet]~~ shall be vested with all the powers necessary to collect any referred debts.

(2) For those debts deemed unfeasible or cost ineffective to pursue, the *department*~~[cabinet]~~ shall maintain written records of the debt and the reason the debt was deemed unfeasible or cost ineffective to pursue. These debts shall be written off in accordance with administrative regulations promulgated under the authority of subsection (6) of this section.

(3) All certified debts received by the *department*~~[cabinet]~~ after the sixty (60) day collection period allowed in KRS 45.237(4) shall be subject to interest at the tax interest rate determined under KRS 131.183, on the amount of the debt from the date the debt is certified to the *department*~~[cabinet]~~ until it is satisfied, and a twenty-five percent (25%) collection fee. The *department*~~[cabinet]~~ may retain the collection fee and shall deposit the interest and recovered funds in the budget reserve trust fund established in KRS 48.705, except for Medicaid benefits and funds required by law to be remitted to a federal agency.

(4) The *commissioner*~~[secretary]~~ of the *department*~~[cabinet]~~ may refer to the Attorney General any unsatisfied claim, demand, account, or judgment in favor of the Commonwealth for further civil or criminal action under KRS 15.060.

(5) (a) The *department*~~[cabinet]~~ shall report annually by October 1 to the Legislative Research Commission on all referred certified debts, including at least a summary of the debts by agency, fund type, and age, the latter compiled in the following four (4) categories:

1. Debts from ninety (90) to one hundred seventy-nine (179) days old;

2. Debts from one hundred eighty (180) to three hundred sixty-four (364) days old;

3. Debts over one (1) year old but less than three (3) years old; and

4. Debts three (3) years old or older.

(b) The annual report shall also include the collection amount of the debts in paragraph (a) of this subsection and the accounts to which the amounts are credited.

(6) The *department*~~[cabinet]~~ shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish standards that agencies shall use in determining when to write debts off the books.

Section 63. KRS 45.239 is amended to read as follows:

(1) The Court of Justice shall initiate, by October 1, 2004, fully implement by October 1, 2005, and thereafter maintain a system for tracking and identifying debts.

(2) The Court of Justice shall establish and operate a system for collecting debt.

(3) In establishing the systems required by this section, the Court of Justice shall consider technology that could assist in the accurate, timely, and efficient delivery of payments of debts.

(4) The Court of Justice, Justice Cabinet, and *the Department of* Revenue~~[Cabinet]~~ shall collaborate to implement a system, if feasible, to identify and collect debts in existence prior to the implementation date of the system required by subsection (1) of this section. Confidential information shared among these entities to identify and collect debts shall not be divulged to any unauthorized person. Debts collected under this subsection shall be reported annually and designated separately as part of the report required pursuant to KRS 45.238 beginning on October 1, 2005, and ending with the report filed on or before October 1, 2009.

(5) The Court of Justice, Justice Cabinet, and *Department of* Revenue~~[Cabinet]~~ shall collaborate to implement a system, if feasible, to identify and collect liquidated debts in existence prior to the implementation date of the system required by subsection (1) of this section. Confidential information shared among these entities to identify and collect debts shall not be divulged to any unauthorized person. Debts collected under this subsection shall be reported annually to the Legislative Research Commission beginning on October 1, 2005, and ending with the report filed on or before October 1, 2009.

Section 64. KRS 45.241 is amended to read as follows:

(1) As used in this section:

(a) "Debt" means a sum certain which has been certified by an agency as due and owing;

(b) "Liquidated debt" means a legal debt for a sum certain which has been certified by an agency as final due and owing, all appeals and legal actions having been exhausted; and for the Court of Justice means a legal debt including any fine, fee, court costs, or restitution due the Commonwealth, which have been imposed by a final sentence of a trial court of the Commonwealth and for which the time permitted for payment pursuant to the provisions of KRS 23A.205(3) or KRS 24A.175(4) has expired;

(c) "Agency" means an organizational unit or administrative body in the executive branch of state government, as defined in KRS 12.010;

(d) *"Department"*~~["Cabinet"]~~ means the *Department of* Revenue~~[Cabinet]~~;

(e) "Court of Justice" means the Administrative Office of the Courts, all courts, and all clerks of the courts;

(f) "Forgivable loan agreement" means a loan agreement entered into between an agency and a borrower that establishes specific conditions, which, if satisfied by the borrower, allows the agency to forgive a portion or all of the loan; and

(g) "Improper payment" means a payment made to a vendor, provider, or recipient due to error, fraud, or abuse.

(2) Each agency and the Court of Justice shall develop, maintain, and update in a timely manner an ongoing inventory of each debt owed to it, including debts due to improper payments, and shall make every reasonable effort to collect each debt. Within sixty (60) days after the identification of a debt, each agency shall begin administrative action to collect the debt.

(3) The Auditor of Public Accounts shall review each agency's debt identification and collection procedures as part of the annual audit of state agencies.

(4) An agency shall not forgive any debt owed to it unless that agency has entered into a forgivable loan agreement with a borrower, or unless otherwise provided by statute.

(5) For those agencies without statutory procedures for collecting debts, the *Department of* Revenue~~[Cabinet]~~ shall promulgate administrative regulations in accordance with KRS Chapter 13A to prescribe standards and procedures with which those agencies shall comply regarding collection of debts, notices to persons owing debt, information to be monitored concerning the debts, and an appeals process.

(6) Each agency and the Court of Justice shall identify all liquidated debts, including debts due to improper payments, and shall submit a list of those liquidated debts in the form and manner prescribed by the *department*~~[cabinet]~~ to the *department*~~[cabinet]~~ for review. The *department*~~[cabinet]~~ shall review the

information submitted by the agencies and the Court of Justice and shall, within ninety (90) days of receipt of the information, determine whether it would be cost-effective for the *department*~~[cabinet]~~ to further pursue collection of the liquidated debts.

(a) The *department*~~[cabinet]~~ may, after consultation with the agency or the Court of Justice, return the liquidated debt to the entity submitting the liquidated debt if:

1. The request for review contains insufficient information; or

2. The debt is not feasible to collect.

Any return of a liquidated debt shall be in writing, and shall state why the debt is being returned.

(b) The *department*~~[cabinet]~~ shall identify in writing, to the submitting agency or the Court of Justice, the liquidated debts it has determined that it can pursue in a cost-effective manner, and the agency or Court of Justice shall officially refer the identified liquidated debts to the cabinet for collection.

(c) The agency and the Court of Justice shall retain a complete record of all liquidated debts referred to the *department*~~[cabinet]~~ for collection until the debt is collected or forgiven.

(d) Each agency and the Court of Justice shall make appropriate accounting of any uncollected debt as prescribed by law.

(7) (a) If the agency recovers the debt funds prior to referral to the *Department of* Revenue~~[Cabinet]~~, the agency shall retain the collected funds in accordance with its statutory authority.

(b) Upon referral of a liquidated debt to the *Department of* Revenue~~[Cabinet]~~, the liquidated debt shall accrue interest from the time of referral until paid, and a twenty-five percent (25%) collection fee shall attach unless the interest and collection fee are waived by the *Department of* Revenue~~[Cabinet]~~. The collection fee and interest shall be in addition to any other costs accrued prior to the time of referral. The *department*~~[cabinet]~~ may deduct and retain from the liquidated debt recovered an amount equal to the lesser of the collection fee or the actual expenses incurred in the collection of the debt. Any funds recovered by the *Department of* Revenue~~[Cabinet]~~ after the deduction of the *department's*~~[cabinet's]~~ cost of collection expenses shall be deposited in the general fund, except for Medicaid benefits funds and funds required by law to be remitted to a federal agency, which shall be remitted as required by law.

(c) Nothing in this section shall prohibit the *Department of* Revenue~~[Cabinet]~~ from entering into a memorandum of agreement with an agency pursuant to KRS 131.130(11), for collection of debts prior to liquidation. If an agency enters into an agreement with the *department*~~[cabinet]~~, the agency shall retain funds collected according to the provisions of the agreement.

(d) This section shall not affect any agreement between the *department*~~[cabinet]~~ and an agency entered into under KRS 131.130(11) that is in effect on July 13, 2004, that provides for the collection of liquidated debts by the *department*~~[cabinet]~~ on behalf of the agency.

(e) This section shall not affect the collection of delinquent taxes by county attorneys under KRS 134.500.

(f) This section shall not affect the collection of performance or reclamation bonds.

(8) Upon receipt of a referred liquidated debt and after its determination that the debt is feasible and cost-effective to collect, the *Department of* Revenue~~[Cabinet]~~ shall pursue collection of the referred debt in accordance with KRS 131.030.

(9) By administrative regulation promulgated under KRS Chapter 13A, the *Department of* Revenue~~[Cabinet]~~ shall prescribe the electronic format and form of, and the information required in, a referral.

(10) (a) The *Department of* Revenue~~[Cabinet]~~ shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on the collection of debts, including debts due to improper payments. The report shall include the total amount by agency and fund type of liquidated debt that has been referred to the *department*~~[cabinet]~~; the amount of each referring agency's liquidated debt, by fund type, that has been collected by the *department*~~[cabinet]~~; and the total amount of each referring agency's liquidated debt, by fund type, that the *department*~~[cabinet]~~ determined to be cost-ineffective to collect, including the reasons for the determinations.

(b) Each cabinet shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on:

1. The amount of previous fiscal year unliquidated debt by agency, including debts due to improper payments, fund type, category, and age, the latter to be categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years; and

2. The amount, by agency, of liquidated debt, including debts due to improper payments, not referred to the *Department of* Revenue~~[Cabinet]~~; a summary, by criteria listed in subsection (6)(a) of this section, of reasons the *Department of* Revenue~~[Cabinet]~~ provided for not requesting referral of those liquidated debts; and a summary of the actions each agency is taking to collect those liquidated debts.

(c) Beginning on October 1, 2005, the Court of Justice shall report annually by October 1 of each year to the Interim Joint Committee on Appropriations and Revenue the amount of previous fiscal year unliquidated debt by county and whether in the Circuit Court or District Court; and fund type and age, the latter categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years. The first year for which the Court of Justice shall be required to report is the fiscal year beginning on July 1, 2004 and ending on June 30, 2005. The Court of Justice shall not be required to report unliquidated debts in existence prior to July 1, 2004.

(d) The Finance and Administration Cabinet shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on the amount of the General Government Cabinet's unliquidated debt by agency, fund type, and age, the latter categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years.

(11) At the time of submission of a liquidated debt to the *Department of* Revenue~~[Cabinet]~~ for review, the referring agency or the Court of Justice shall provide information about the debt to the State Treasurer for the Treasurer's action under KRS 44.030(1).

Section 65. KRS 45.251 is amended to read as follows:

(1) Expenditures shall be limited to the amounts and purposes for which appropriations are made. All expenditures shall be reflected in the unified and integrated system of accounts as provided by KRS 45.305.

(2) The Finance and Administration Cabinet shall prescribe all information technology standards, system attributes, and components to be used in, or in conjunction with, the unified accounting system. The components must be consistent with Commonwealth standards contained within the information technology architecture, as provided by the *Commonwealth Office of*~~[Governor's Office for]~~ Technology.

(3) The Governor, the Chief Justice, and the Legislative Research Commission shall designate the officer or employee authorized to approve advices of employment, purchase orders and contracts, and requisitions for reservation of funds, and no advice, order, contract, or requisition shall be honored as a commitment statement unless the designation has been conveyed to the Finance and Administration Cabinet.

(4) The Finance and Administration Cabinet may approve for payment any expenditure presented by a budget unit, provided that the Finance and Administration Cabinet is able to determine that the expenditure is to satisfy a liability of the Commonwealth of Kentucky created on behalf of that budget unit in fulfilling the governmental function assigned to that budget unit and that the expenditure is being made from the unexpended balance of a proper allotment.

(5) Subsidiary records shall be maintained to report the financial operation and condition of each budget unit. These subsidiary records shall be compatible with the unified accounting system prescribed by subsection (1) of this section and by KRS 45.305, and may be on the accrual basis or cash basis. Expenditures may be by prior encumbrances or by straight disbursements. The subsidiary records may be maintained by the Finance and Administration Cabinet and by the budget unit involved. When a budget unit is authorized to maintain subsidiary records, the Finance and Administration Cabinet shall have authority to prescribe the accounting and preauditing procedures. The unified system of accounts shall conform to accepted management and accounting principles.

Section 66. KRS 45.253 is amended to read as follows:

(1) Revolving accounts may be established by appropriation in a branch budget bill to finance activities which are self-supporting in whole or in part.

(2) Trust and agency accounts may be established by a branch budget bill to receive and disburse contributions, gifts, donations, devises, and federal appropriations, and, when authorized by law, by depositing all of the fees

(which include fees for maintenance in state institutions, incidental fees, tuition fees, fees for board and room, athletics, and student activities), rentals, admittance, sales, licenses collected by law, subventions, and other miscellaneous receipts of budget units.

(3) The head of the budget unit or other responsible fiscal agent of the unit for which a revolving, trust, or agency account has been established shall deposit with the State Treasury all receipts of the character above described, and the Finance and Administration Cabinet shall credit all receipts to the budget unit and shall keep separate accounting for each account so established.

(4) The amounts credited to any revolving, trust, or agency account so provided, shall be held available for disbursement for the purpose provided by law and shall not be diverted to any other purpose. Revolving, trust, or agency accounts shall be subject to withdrawal from the State Treasury by the head of each budget unit when actually needed, on requisition to the Finance and Administration Cabinet in the same manner provided by law as other state funds are withdrawn. Funds received from the federal government in the form of grants or otherwise may be expended for the purpose intended even though received in a fiscal year other than that in which the related original encumbrance or expenditure was incurred. Trust and agency funds shall be allotted before an expenditure is made; and the secretary of the Finance and Administration Cabinet may withhold allotment of general fund appropriations to the extent trust and agency funds are available.

(5) Subject to prior approval by the secretary of the Finance and Administration Cabinet, the Chief Justice, and the Legislative Research Commission for their respective branches, any budget unit which, as an incident to its authorized duties and functions, furnishes requested services or materials to any persons outside state government, where such services or materials are not required by law to be furnished gratuitously, may charge such persons an amount not to exceed the total expense to the budget unit of the services or materials furnished. The receipts from the approved charges shall be credited to the surplus account of the general fund. Payroll deductions for the Kentucky State Police legal fund shall be made without any service fees or charges.

(6) The *Commonwealth Office of*~~[Governor's Office for]~~ Technology may charge any agency of local government an amount, not to exceed the total expense to the department, for services rendered or materials furnished at the request of the local government agency, unless the services or materials are required by law to be furnished gratuitously. The receipts from the authorized charges shall be deposited in the State Treasury and credited to the trust and agency fund, the *Commonwealth Office of*~~[Governor's Office for]~~ Technology's operating account.

(7) All receipts which accrue as the result of the *Commonwealth Office of*~~[Governor's Office for]~~ Technology's providing on-line computer access to public records by nongovernment entities shall be deposited in the State Treasury and credited to the trust and agency fund, the *Commonwealth Office of*~~[Governor's Office for]~~ Technology's operating account.

Section 67. KRS 45.818 is amended to read as follows:

The *executive director of the Commonwealth Office of Technology*~~[Commonwealth's chief information officer]~~ shall provide to the Capital Projects and Bond Oversight Committee at its January, April, July, and October regular meetings a status report on any information technology system not yet completed which received line item authorization by the Kentucky General Assembly or was authorized pursuant to KRS 45.760(14), excluding systems of an institution as defined under KRS 164.001. The committee shall prescribe data elements to be included in the quarterly status reports.

Section 68. KRS 45.990 is amended to read as follows:

(1) Any officer, agent, or employee of any budget unit who willfully fails or refuses to comply with any of the provisions of KRS 45.011 to 45.031, 45.121, 45.142, 45.151, 45.242, 45.244, 45.251, 45.253, 45.305, or 45.313, or who expends any money in violation of any of the provisions of those sections, shall be subject to prosecution in the Franklin Circuit Court, and upon conviction shall be guilty of a violation.

(2) If any person incurs, or orders or votes for the incurrence of, any obligations in violation of any of the provisions of KRS 45.244, he and his sureties shall be jointly and severally liable therefor.

(3) Any employee of the *Office*~~[Division]~~ of Material and Procurement Services *established within the Office of the Controller*, or any official of the Commonwealth of Kentucky, elective or appointive, who shall take, receive, or offer to take or receive, either directly or indirectly, any rebate, percentage of contract, money, or other things of value, as an inducement or intended inducement in the procurement of business, or the giving of business, including, but not limited to, personal service contracts, for, or to, or from, any person, partnership,

firm, or corporation, offering, bidding for, or in open market seeking to make sales to the Commonwealth of Kentucky, shall be deemed guilty of a Class C felony.

(4) Every person, firm, or corporation offering to make, or pay, or give, any rebate, percentage of contract, money, or any other thing of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, including, but not limited to, personal service contracts, to any employee of the *Office*~~[Division]~~ of Material and Procurement Services or to any official of the Commonwealth, elective or appointive, in his efforts to bid for, or offer for sale, or to seek in the open market, shall be deemed guilty of a Class C felony.

Section 69. 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 *Properties*~~[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 KRS 45A.180, the procurement 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 to the taxpayer:

(a) A design-build basis; or

(b) A construction management-at-risk basis.

Proposals shall be reviewed by the engineering staff to assure quality and value, and compliance with procurement 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 70. KRS 45A.185 is amended to read as follows:

(1) Bidder security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the Commonwealth to exceed *forty thousand dollars ($40,000)*~~[twenty-five thousand dollars ($25,000)]~~. Bidder's security shall be a bond provided by a surety company authorized to do business in this Commonwealth, or the equivalent in cash, in a form satisfactory to the Commonwealth. Nothing herein prevents the requirement of such bonds on construction contracts under *forty thousand dollars ($40,000)*~~[twenty-five thousand dollars ($25,000)]~~ when the circumstances warrant.

(2) Bidder's security shall be in an amount equal to at least five percent (5%) of the amount of the bid.

(3) When the invitation for bids requires that bidder security be provided, noncompliance requires that the bid be rejected, provided, however, that the secretary of the Finance and Administration Cabinet may set forth by regulation exceptions to this requirement in the event of substantial compliance.

(4) After the bids are opened, they shall be irrevocable for the period specified in the invitation for bids, provided that, if a bidder is permitted to withdraw his bid before award because of a mistake in the bid as allowed by law or regulation, no action shall be had against the bidder or the bidder's security.

SECTION 71. A NEW SECTION OF KRS 45A.185 TO 45A.190 IS CREATED TO READ AS FOLLOWS:

The reverse auction process shall not be used to procure architectural, engineering, or engineering-related services as described in KRS 45A.730; underwriter, bond counsel, or financial advisors as described in KRS 45A.850; or contracts for construction as described in KRS 45A.030 which are required to be bonded as described in KRS 45A.185 and 45A.190 or those projects which would require the preparation of stamped drawings.

Section 72. KRS 45A.190 is amended to read as follows:

(1) As used in this section, "agency contract administrator" means the state agency employee responsible for the administration of a contract.

(2) When a construction contract is awarded in an amount in excess of *forty thousand dollars ($40,000)*~~[twenty-five thousand dollars ($25,000)]~~, the following bonds shall be furnished to the Commonwealth, and shall be binding on the parties upon the award of the contract:

(a) A performance bond satisfactory to the Commonwealth executed by a surety company authorized to do business in this Commonwealth, or otherwise supplied, satisfactory to the Commonwealth, in an amount equal to one hundred percent (100%) of the contract price as it may be increased; and

(b) A payment bond satisfactory to the Commonwealth executed by a surety company authorized to do business in the Commonwealth, or otherwise supplied, satisfactory to the Commonwealth, for the protection of all persons supplying labor and material to the contractor or his subcontractors, for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the original contract price.

(3) When any contract in an amount in excess of *forty thousand dollars ($40,000)*~~[twenty-five thousand dollars ($25,000)]~~ for commodities, supplies, equipment, or services of any kind, or when a contract for construction services costing *forty thousand dollars ($40,000)*~~[twenty-five thousand dollars ($25,000)]~~ or less is proposed for presentation to vendors or contractors, the agency contract administrator shall evaluate whether a performance bond should be required in the procurement document, and make his recommendation to the purchasing agency. The agency contract administrator shall note the reason that a performance bond is or is not recommended and his notation shall be a part of the permanent record relating to the contract. If a performance bond is required, the requirement shall be included in the invitation to bid, request for proposal, or other procurement document. The agency contract administrator shall make audits of the performance of contracts upon completion of one-third (1/3) of the contract and upon completion of two-thirds (2/3) of the contract. For

contracts taking longer than one (1) year to complete, audits of performance shall be conducted at least annually. Before a vendor is released from a performance bond, the agency contract administrator shall review the audits of performance, make a final performance review, and promptly determine whether, in his or her opinion, the vendor has fully complied with the terms of the contract. The opinion of the agency contract administrator shall be made in writing or electronically, set forth the reasons for his or her opinion regarding compliance or noncompliance, and be signed by the agency contract administrator. This opinion may have an electronic signature. The using agency head shall, after consideration of the performance audits, the final performance review, and the opinion of the agency contract administrator regarding compliance or noncompliance, determine whether to recommend to the purchasing agency that the performance bond be released or whether a claim should be made against the performance bond. This determination of the using agency head shall be in writing, signed by the using agency head, and forwarded to the purchasing agency. This determination may have an electronic signature and be transmitted electronically. If the recommendation of the using agency is not followed by the purchasing agency, the purchasing agency shall place a statement in the file explaining why it is not followed.

(4) Nothing in this section shall be construed to limit the authority of the Commonwealth to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in subsection (2) or (3) of this section.

Section 73. KRS 45A.182 is amended to read as follows:

(1) When a capital project is to be constructed utilizing the design-build method in accordance with KRS 45A.180, 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 *Engineering and Contract*~~[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.

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 74. KRS 45A.715 is amended to read as follows:

The *Department of* Revenue~~[Cabinet]~~ shall not enter into any personal service contract for the collection of revenue for the state or for the prosecution of any action or proceeding for the collection of delinquent taxes owed by a resident and the assessment of omitted property owned by a resident.

Section 75. KRS 45A.840 is amended to read as follows:

As used in KRS 45A.840 to 45A.879, unless the context requires otherwise:

(1) "Bond counsel" means an attorney who provides legal counsel to a bond issuing agency with regard to bond issuance and provides an unqualified legal opinion to the agency with respect to validity and tax treatment;

(2) "Bond issuance" means the formulation, authorization, and issuance of bonds by a bond issuing agency;

(3) "Bond issuing agency" means the State Property and Buildings Commission, Kentucky Asset/Liability Commission, Turnpike Authority of Kentucky, Kentucky Housing Corporation, Kentucky Infrastructure Authority, Kentucky Higher Education Student Loan Corporation, Kentucky River Authority, Kentucky Agricultural Finance Corporation, Kentucky Local Correctional Facilities Construction Authority, School Facilities Construction Commission, Murray State University, Western Kentucky University, University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Northern Kentucky University, Kentucky State University, University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Morehead State University, Eastern Kentucky University, the Kentucky Community and Technical College System for the Technical Institutions' Branch, and the University of Kentucky for the University of Kentucky Community College System;

(4) "Bonds" means the revenue bonds, notes, or other debt obligations issued by a bond issuing agency;

(5) "Executive director" means the executive director of the Office of Financial Management;

(6) "Office" means the Office of Financial Management established by *Section 11 of this Act*~~[KRS 42.400]~~;

(7) "Underwriter" means:

(a) The financial institution which structures and underwrites the bond issuing agency's issuance of bonds; or

(b) The financial advisor or fiscal agent which provides advice or services to the bond issuing agency with respect to the structure, timing, terms, or other matters concerning bond issuance;

(8) "Underwriter's counsel" means an attorney who provides legal counsel to an underwriter with respect to its work on behalf of a bond issuing agency.

Section 76. KRS 47.012 is amended to read as follows:

All moneys paid to the *Department of* Revenue~~[Cabinet]~~ under the provisions of KRS 138.510 to 138.550 shall be deposited with the State Treasurer and be credited to the general expenditure fund.

Section 77. 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 *Department of* 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.

Section 78. KRS 48.810 is amended to read as follows:

Each program cabinet, the Department for Local Government, the Department of Military Affairs, and the *Commonwealth Office of*~~[Governor's Office for]~~ Technology shall develop and submit a four (4) year strategic plan to meet the broad goals outlined by the Governor, and shall submit an electronic copy of the full plan and an electronic copy of a brief summary of that plan to the state budget director, the secretary of the Executive Cabinet, and the Legislative Research Commission with each biennial budget request.

(1) Each strategic plan shall include, but not be limited to:

(a) A statement of the cabinet or administrative entity's value, vision, and mission;

(b) A statement of how the cabinet or administrative entity's strategic plan is aligned with the Governor's goals and linked to the budget request and the six (6) year capital plan of the cabinet or administrative entity;

(c) A brief summary of a situation analysis conducted by the program cabinet or administrative entity;

(d) Identification of measurable goals for the next four (4) years;

(e) Specification of objectives to meet the stated goals;

(f) Identification of performance indicators to be used to measure progress toward meeting goals and objectives; and

(g) A progress report providing data and information on the performance indicators set forth in the program cabinet or administrative entity's most recent strategic plan.

(2) On or before September 1 of each even-numbered fiscal year, program cabinets and administrative entities which have submitted strategic plans in the previous fiscal year shall submit a progress report to the office of the state budget director, or its designee, which provides data and information regarding the progress the program cabinet or entity has made toward meeting its goals as measured by performance indicators set forth in the cabinet's or entity's most recent strategic plan.

(3) The state budget director shall designate an entity to develop and implement a methodology for strategic planning and progress reporting for use by program cabinets and administrative entities submitting strategic plans and progress reports pursuant to this section. The entity designated by the state budget director shall develop and make available a training course in strategic planning that is appropriate for and targeted to state government managers, and shall make that training course available to state managers and their designees who have responsibility for the completion of a strategic plan as required by this section.

(4) The *Commonwealth Office of*~~[Governor's Office for]~~ Technology shall maintain uniform electronic strategic plan and progress report submission forms and a procedure that allows all plans and progress reports to be entered into an electronic database that is searchable by interested parties. The database shall be developed and maintained in a form that complies with all provisions of KRS 48.950, 48.955, and 48.960. The *Commonwealth Office of*~~[Governor's Office for]~~ Technology shall develop and maintain a program to provide public access to submitted plans and progress reports.

Section 79. KRS 56.450 is amended to read as follows:

(1) There is recognized, as an independent agency of the state within the meaning of KRS Chapter 12, and as a constituted authority of the Commonwealth of Kentucky, a state and a sovereign entity within the meaning of regulations of the United States Department of the Treasury, Internal Revenue Service, a State Property and Buildings Commission composed of the Governor, who shall be chairman thereof, the Lieutenant Governor who shall be vice chairman of the commission, the Attorney General, the secretary of the Cabinet for Economic Development, *and* the secretary of the Finance and Administration Cabinet,~~[and the secretary of the Revenue Cabinet,]~~ or their alternates as authorized in subsection (5) of this section.

(2) No member of the commission shall receive any salary, fee, or other remuneration for his services as a member of the commission, but each member shall be entitled to be reimbursed for his ordinary traveling expenses, including meals and lodging, incurred in the performance of his duties.

(3) The commission shall constitute a public body corporate with perpetual succession and power in its name to contract and be contracted with, sue and be sued, adopt bylaws, have and use a corporate seal, and exercise all of the powers granted to private corporations generally in KRS Chapter 271B, except as that chapter may be inconsistent with KRS 56.440 to 56.550.

(4) Subject to the provisions of KRS 56.550, but notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, all revenue bonds issued by state agencies, except as provided in this chapter (but not including bonds issued directly by and in the name of the Commonwealth of Kentucky under authorization of the executive cabinet), shall be issued under the provisions of this chapter. As an additional and alternative method for the issuance of revenue bonds under the provisions of this chapter, upon application of any state agency and approval by the commission, the commission acting for and on behalf of said state agency may issue revenue bonds in its own name, in accordance with the terms and provisions of KRS Chapter 58, secured by and payable solely from all or any part of the revenues of the state agency as may be specified and provided in the approved application. Any covenants and undertakings of the state agency in the approved application with regard to the production of revenues and the use, application, or disposition thereof may be enforced by the holders of any of the revenue bonds or by any trustee for such bondholders. The issuance of any revenue bonds for the state or any of its agencies by or on behalf of the Kentucky Economic Development Finance Authority and the issuance of any revenue bonds for economic development projects authorized by Acts 1980, Ch. 109, shall require the prior approval of the State Property and Buildings Commission. In issuing bonds under its own name, or in approving issuance of bonds by other state agencies, the commission shall be deemed to be acting for the state government of the Commonwealth of Kentucky as one (1) unit within the meaning of the regulations of the United States Department of the Treasury, Internal Revenue Service, and it shall be limited to the issuance of bonds to accomplish the public purposes of that unit.

(5) (a) Each member of the commission may designate, by an instrument in writing over his signature and filed with the secretary as a public record of the commission, an alternate with full authority to attend in the absence of the appointing member for any reason, any properly convened meeting of the commission and to participate in the consideration of, and voting upon, business and transactions of the commission. Any designation of an alternate may, in the discretion of the appointing member, be limited upon the face of the appointing instrument, to be effective only for a designated meeting or only for specified business; or the same may be shown on the face of the appointing instrument to be on a continuing basis (but in no case for a period of more than four (4) years), whenever the appointing member is unable to attend, but always subject to revocation by the appointing member in an instrument of like formality, similarly filed with the secretary as a public record of the commission. Any party transacting business with the commission, or materially affected thereby, shall be entitled to accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time of designation, the scope thereof, and if of a continuing nature, whether the same has been revoked, and when; and the joint certificate shall be made and delivered to any such party within a reasonable time after written request is made therefor with acceptable identification of the business or transaction referred, and of the requesting party's interest therein. Each alternate shall be a person on the staff of the appointing member, or in the employ of his agency or department of the government of the Commonwealth, as the case may be.

(b) Any four (4) members of the commission, or their alternates authorized under paragraph (a) of this subsection, shall constitute a quorum and shall by majority vote be authorized to transact any and all business of the commission.

(c) The State Property and Buildings Commission is reconstituted as of October 1, 1976, with the powers herein provided.

Section 80. KRS 56.784 is amended to read as follows:

(1) The Finance and Administration Cabinet may implement the provisions of KRS 56.770 to 56.784 through the promulgation of administrative regulations pursuant to KRS Chapter 13A.

(2) By July 15, 2002, the secretary of the Finance and Administration Cabinet shall promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A establishing a process for procurement of energy savings performance contracts, including required contract language. The following entities shall adhere to these regulations when procuring services under a guaranteed energy savings performance contract:

(a) Any governing body of a postsecondary institution that manages its capital construction program under KRS 164A.580; or

(b) Any public corporation as defined 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.

(3) All state agencies, including those identified in subsection (2) of this section, shall submit proposed guaranteed energy savings performance contracts to the Office of Financial Management *within the Office of the Controller* for review and approval prior to contract execution.

(4) The secretary shall report all authorized guaranteed energy savings performance contracts to the Capital Projects and Bond Oversight Committee for its review.

Section 81. KRS 56.813 is amended to read as follows:

(1) An agency may request that the Finance and Administration Cabinet provide additional space in a building in which space is already leased by the state. If the cabinet determines there is need for more space, the current lease may be amended, with agreement of the lessor, to increase the leased space. However, the rental rate paid for the additional space shall not exceed the square foot rental rate fixed by the original lease. A lease may also be modified with agreement of the lessor to decrease the number of square feet leased and the rent shall be appropriately reduced.

(2) (a) When an agency occupying leased premises desires improvements in the premises, the agency shall obtain the cabinet secretary's approval for the improvements at an estimated cost before the lessor makes the improvements.

1. If the improvements cost more than one thousand dollars ($1,000), the agency shall obtain the cabinet secretary's approval for the rent increase necessary to amortize the cost of the improvements in full over the life of the lease. No other financing method shall be used.

2. If the improvements cost one thousand dollars ($1,000) or less, the agency shall obtain the cabinet secretary's approval for the dollar amount necessary to pay for the cost of the improvements at direct state expense or the rent increase necessary to amortize the cost of the improvements in full over a period of time which shall run no longer that the life of the lease. No other financing method shall be used. No improvement shall be artificially divided so as to qualify under the provisions of this subparagraph.

(b) Any rent increase necessary to amortize a cost pursuant to paragraph (a) of this subsection shall not extend beyond the period required to accomplish the agreed amortization.

(c) The cabinet secretary shall amend a lease to reflect a rent increase necessary to amortize a cost pursuant to paragraphs (a) and (b) of this subsection, and the amendment shall state that the rent increase is for the purpose of amortizing this cost.

(3) Any modification to an existing lease which is required because of an emergency as described at KRS 56.805(3) shall be made pursuant to KRS 56.805(3) and (4) and this section.

(4) The Division of Real Properties, within the Department for Facilities *and Support Services*~~[Management]~~, shall maintain a register of all proposed lease modifications which, if approved, will result in the payment of a square foot rate for the leased space which is greater than the square foot rate contained in the original lease. All such proposed modifications shall be filed and kept in the register for public inspection and comment for thirty (30) calendar days. Comments received from the public during the period shall be considered before the lease modification is executed by the parties and becomes binding against the Commonwealth. After receiving comments, if the secretary determines that the proposed modifications are not in the interest of the Commonwealth, he may require the agency to continue operation in its present space or cancel the lease and seek more suitable space. The lessor, under any lease proposed to be modified as contemplated therein, shall be advised of the requirements of this subsection and cautioned that the Commonwealth shall have no liability for any action undertaken by the lessor in anticipation of, but prior to execution of, the modifications of the lease.

Section 82. KRS 56.8177 is amended to read as follows:

All built-to-suit lease agreements shall be reviewed by the Office of Financial Management *within the Office of the Controller* prior to execution on behalf of 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 83. KRS 56.819 is amended to read as follows:

(1) When there is a change in ownership in leased premises, the new owner shall furnish the Division of Real Properties, within the Department for Facilities *and Support Services*~~[Management]~~, with a copy of the deed or other instrument of conveyance by which the new owner acquired title to the property or the right to payment under the lease and other evidence in support of his claim to the payment of rent under the lease the Division of Real Properties may request. The Commonwealth shall change its records and redirect its rent payments accordingly.

(2) When the agency occupying leased premises or the Finance and Administration Cabinet receives information that a change in ownership has occurred, payments of rent shall be suspended until the Division of Real Properties learns the ownership of the premises and determines who is entitled to the rent.

Section 84. KRS 56.861 is amended to read as follows:

(1) There is recognized as an independent agency of the state within the meaning of KRS Chapter 12, and as a constituted authority of the Commonwealth of Kentucky, a state and a sovereign entity within the meaning of regulations of the United States Department of Treasury, Internal Revenue Service, a Kentucky Asset/Liability Commission composed of the secretary of the Finance and Administration Cabinet, who shall be chair; the Attorney General; the State Treasurer;~~[the secretary of the Revenue Cabinet;]~~ and the state budget director, or their alternates as authorized in KRS 56.865. The vice chair shall be elected from among the membership.

(2) Any three (3) members of the commission, or their alternates, shall constitute a quorum and shall by a majority vote be authorized to transact any and all business of the commission.

(3) No member shall receive any salary, fee, or other remuneration for services as a member of the commission, but each shall be entitled to reimbursement for ordinary traveling expenses, including meals and lodging, incurred in the performance of the member's duties.

(4) The commission shall constitute a public body corporate with perpetual succession and power in name to contract and be contracted with, sue and be sued, adopt bylaws not inconsistent with KRS 56.860 to 56.869, have and use a corporate seal, and exercise all of the powers granted private corporations generally in KRS Chapter 271B, except as the same may be inconsistent with KRS 56.860 to 56.869.

(5) The selection of bond counsel, senior managing underwriter, or financial advisor to the commission shall be subject to the provisions of KRS 45A.840 to 45A.879.

(6) Notes issued pursuant to KRS 56.860 to 56.869 may be sold on a competitive or negotiated sale basis.

Section 85. KRS 56.862 is amended to read as follows:

The Office of Financial Management *within the Office of the Controller* shall serve as staff to the commission. The executive director of the Office of Financial Management shall serve as secretary to the commission. The commission shall coordinate with the Office of the Controller to ensure that the necessary financial data is made available.

Section 86. KRS 56.863 is amended to read as follows:

The commission shall have the power and duty to:

(1) Maintain the records and perform the functions necessary and proper to accomplish the purposes of KRS 56.860 to 56.869;

(2) Promulgate administrative regulations relating to KRS 56.860 to 56.869;

(3) Conduct analysis to determine the impact of fluctuating receipts of revenues on the budget of the Commonwealth, fluctuating interest rates upon the interest-sensitive assets and interest-sensitive liabilities of the Commonwealth, and the resulting change in the net interest margin on the budget of the Commonwealth;

(4) Develop strategies to mitigate the impact of fluctuating receipts of revenues on the budget of the Commonwealth and of fluctuating interest rates on the Commonwealth’s interest-sensitive assets and interest-sensitive liabilities;

(5) Report its findings to the State Investment Commission at least annually to assist the State Investment Commission in developing and implementing its investment strategy. The State Investment Commission shall provide the commission with a copy of its monthly investment income report to aid the commission in developing and implementing its strategies;

(6) Issue funding notes, project notes, and tax and revenue anticipation notes or other obligations on behalf of any state agency to fund authorized projects or to satisfy judgments;

(7) Refund any funding notes, project notes, or tax and revenue anticipation notes issued under KRS 56.860 to 56.869 to achieve economic savings, to better match receipts with expenditures, or as a part of a continuing finance program;

(8) Designate individual employees or officers of the Office of Financial Management *within the Office of the Controller* as agents for purposes of approving the principal amount of tax and revenue anticipation notes, the interest rate, the discount, maturity date, and other relevant terms of tax and revenue anticipation notes, project notes, and funding notes or refunding notes issued within constraints established by the commission and to execute agreements, including notes and financial agreements, for the commission;

(9) Enter into financial agreements for the purpose of hedging its current or projected interest-sensitive assets and interest-sensitive liabilities to stabilize the Commonwealth's net interest margin, as deemed necessary by the commission, subject to administrative regulations promulgated by the commission that limit the net exposure of the Commonwealth as a result of these financial agreements;

(10) Deposit net interest payments and premiums received by the commission under financial agreements into a restricted account, which shall not lapse at the end of the fiscal year but shall continue to accumulate to act as security for these financial agreements. This duty is mandatory in nature. Any accumulated funds in excess of the amount determined by the commission to be necessary to establish this security may be applied to debt service payments, net interest payments, and premiums and expenses related to interest-sensitive liabilities; and

(11) Report to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue on a semiannual basis, by September 30 and March 31 of each year, the following:

(a) A description of the Commonwealth's investment and debt structure;

(b) The plan developed to mitigate the impact of fluctuating revenue receipts on the budget of the Commonwealth and fluctuating interest rates on the interest-sensitive assets and interest-sensitive liabilities of the Commonwealth, including an analysis of the impact that a change in the net interest margin would have on the budget of the Commonwealth. The report due by March 31 of each year shall reflect the strategy for January through June of the fiscal year, and the report due by September 30 shall reflect the strategy for July through December of the fiscal year;

(c) The principal amount of notes issued, redeemed, and outstanding; and a description of all financial agreements entered into during the reporting period. The report due by March 31 shall include information about agreements entered into from July through December of the fiscal year. The report due by September 30 shall include information about agreements entered into between January and June of the prior fiscal year; and

(d) A summary of gains and losses associated with financial agreements and any other cash flow strategies undertaken by the commission to mitigate the effect of fluctuating interest rates during each reporting period. The report due by March 31 shall include information about agreements and strategies entered into or undertaken from July through December of the fiscal year. The report due by September 30 shall include information about agreements and strategies entered into or undertaken from January through June of the prior fiscal year.

Section 87. KRS 61.420 is amended to read as follows:

For the purpose of KRS 61.410 to 61.500:

(1) "Wages" means all remuneration for employment as defined in subsection (2) of this section, including the cash value of all remuneration paid in any medium other than cash, except that the term shall not include that part of the remuneration which, even if it were for "employment" within the meaning of Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act;

(2) "Employment" means any service performed by an employee in the employ of the Commonwealth, a political subdivision, or an interstate instrumentality, for those employers, except (a) service of an emergency nature, (b) service which in the absence of an agreement entered into under KRS 61.410 to 61.500 would constitute "employment" as defined in the Social Security Act, or (c) service which under the Social Security Act may not be included in any agreement between the Commonwealth and the commissioner entered into under KRS 61.410 to 61.500; except that service, the compensation for which is on a fee basis, may be excluded in any plan approved under KRS 61.410 to 61.500, and provided also, that service in any class or classes of positions,

the exclusion of which is permitted under the Social Security Act, may be excluded in any plan approved under KRS 61.460;

(3) "Employee" means any person in the service of the Commonwealth, a political subdivision, or an interstate instrumentality of which the Commonwealth is a principal and shall include all persons designated officers including those which are elected and those which are appointed;

(4) "State agency" means the Division of *Local Government Services*~~[Social Security]~~, Office of the Controller, which agency shall be subject to the authority of the secretary of finance and administration;

(5) "Political subdivision," in addition to counties, municipal corporations, and school districts, includes instrumentalities of the Commonwealth, of one (1) or more of its political subdivisions, or of the Commonwealth and one (1) or more of its political subdivisions, and any other governmental unit thereof;

(6) "Social Security Act" means the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the "Social Security Act," including regulations and requirements issued pursuant thereto, as that act has been and may from time to time be amended;

(7) "Federal Insurance Contributions Act" means subchapters A, B, and C of Chapter 21 of the Federal Internal Revenue Code and all amendments thereto;

(8) "Commissioner" means the Commissioner of Social Security and includes any individual to whom the commissioner may delegate any of the commissioner's functions under the Social Security Act; and, with respect to any transactions regarding insurance coverage occurring prior to April 11, 1953, includes the federal security administrator and any individual to whom the administrator may have delegated any of the administrator's functions under the Social Security Act; and, with respect to any transactions regarding insurance coverage occurring from April 11, 1953, to March 30, 1995, includes the Secretary of Health and Human Services and any individual to whom the secretary may have delegated any of the secretary's functions under the Social Security Act;

(9) "Insurance coverage" means coverage by the old-age, survivors, disability, and hospital insurance provisions of the Social Security Act.

Section 88. KRS 62.055 is amended to read as follows:

(1) Every county clerk, before entering on the duties of his office, shall execute bond to the Commonwealth, with corporate surety authorized and qualified to become surety on bonds in this state. Any county clerk holding office as of January 1, 1978, who has not executed bond as provided herein shall do so within thirty (30) days from February 9, 1978.

(2) In counties containing a consolidated local government or a city of the first class, the amount of the county clerk's bond shall be at least five hundred thousand dollars ($500,000). In counties containing a city of the second class but not containing consolidated local governments and in counties containing an urban-county form of government, the amount of county clerk's bond shall be at least four hundred thousand dollars ($400,000). In counties containing a city of the third class but not a city of the first or second class, a consolidated local government, or an urban-county form of government, the amount of the county clerk's bond shall be at least one hundred thousand dollars ($100,000). In counties containing a city of the fourth or fifth class, but not a city of the first, second, or third class, a consolidated local government, or an urban-county form of government, the amount of the county clerk's bond shall be at least seventy-five thousand dollars ($75,000). In counties containing a city of the sixth class, but not a city of the first, second, third, fourth, or fifth class, a consolidated local government, or an urban-county form of government, the amount of the county clerk's bond shall be at least fifty thousand dollars ($50,000).

(3) The bond of the county clerk shall be examined and approved by the fiscal court, which shall record the approval in its minutes. The fiscal court shall record the bond in the county clerk's records and a copy of the bond shall be transmitted within one (1) month to the *Department of* Revenue~~[Cabinet]~~, where it shall be recorded and preserved. Except in those counties where the fees of the county clerk are paid into the State Treasury, the premium on the county clerk's bond shall be paid by the county.

(4) Where circumstances in a particular county indicate that the amount of the bond may not be sufficient, the *Department of* Revenue~~[Cabinet]~~ may request the fiscal court to increase the bond as provided in KRS 62.060. The fiscal court shall then require a bond of sufficient amount to safeguard the Commonwealth.

Section 89. KRS 65.680 is amended to read as follows:

As used in KRS 65.680 to 65.699:

(1) "Activation date" means the date established in the grant contract at any time in a two (2) year period after the date of approval of the grant contract by the economic development authority or the tourism development authority, as appropriate. The economic development authority or tourism development authority, as appropriate, may extend this two (2) year period to no more than four (4) years upon written application of the agency requesting the extension. To implement the activation date, the agency who is a party to the grant contract shall notify the economic development authority or the tourism development authority, as appropriate, the *Department of* Revenue~~[Cabinet]~~, and other taxing districts that are parties to the grant contract when the implementation of the increment authorized in the grant contract shall occur;

(2) "Agency" means an urban renewal and community development agency established under KRS Chapter 99; a development authority established under KRS Chapter 99; a nonprofit corporation established under KRS Chapter 58; an air board established under KRS 183.132 to 183.160; a local industrial development authority established under KRS 154.50-301 to 154.50-346; a riverport authority established under KRS 65.510 to 65.650; or a designated department, division, or office of a city or county;

(3) "Assessment" means the job development assessment fee authorized by KRS 65.6851, which the governing body may elect to impose throughout the development area;

(4) "Brownfield site" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant;

(5) “City” means any city, consolidated local government, or urban-county;

(6) "Commencement date" means the date a development area is established, as provided in the ordinance creating the development area;

(7) "Commonwealth" means the Commonwealth of Kentucky;

(8) “County” means any county, consolidated local government, or charter county;

(9) "CPI" means the nonseasonally adjusted Consumer Price Index for all urban consumers, all items (base year computed for 1982 to 1984 equals one hundred (100)), published by the United States Department of Labor, Bureau of Labor Statistics;

(10) "Debt charges" means the principal, including any mandatory sinking fund deposits, interest, and any redemption premium, payable on increment bonds as the payments come due and are payable and any charges related to the payment of the foregoing;

(11) “Development area” means a contiguous geographic area, which may be within one (1) or more cities or counties, defined and created for economic development purposes by an ordinance of a city or county in which one (1) or more projects are proposed to be located, except that for any development area for which increments are to include revenues from the Commonwealth, the contiguous geographic area shall satisfy the requirements of KRS 65.6971 or 65.6972;

(12) "Economic development authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;

(13) "Enterprise Zone" means an area designated by the Enterprise Zone Authority of Kentucky to be eligible for the benefits of KRS 154.45-010 to 154.45-110;

(14) “Governing body” means the body possessing legislative authority in a city or county;

(15) "Grant contract" means:

(a) That agreement with respect to a development area established under KRS 65.686, by and among an agency and one (1) or more taxing districts other than the Commonwealth, by which a taxing district permits the payment to an agency of an amount equal to a portion of increments other than revenues from the Commonwealth received by it in return for the benefits accruing to the taxing district by reason of one (1) or more projects in a development area; or

(b) That agreement, including with respect to a development area satisfying the requirements of KRS 65.6971 or 65.6972, a master agreement and addenda to the master agreement, by and among an agency, one (1) or more taxing districts, and the economic development authority or the tourism development authority, as appropriate, by which a taxing district permits the payment to an agency of an

amount equal to a portion of increments received by it in return for the benefits accruing to the taxing district by reason of one (1) or more projects in a development area;

(16) "Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more projects in a development area, the payment of which is secured solely by a pledge of increments or by a pledge of increments and other sources of payment that are otherwise permitted by law to be pledged or used as a source of payment of the bonds or notes;

(17) "Increments" means the amount of revenues received by any taxing district, determined by subtracting the amount of old revenues from the amount of new revenues in the calendar year with respect to a development area and for which the taxing district or districts and the agency have agreed upon under the terms of a grant contract;

(18) "Infrastructure development" means the acquisition of real estate within a development area meeting the requirements of KRS 65.6971 and the construction or improvement, within a development area meeting the requirements of KRS 65.6971, of roads and facilities necessary or desirable for improvements of the real estate, including surveys; site tests and inspections; environmental remediation; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other underground and surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, and electricity, communications, and similar facilities; and utility extensions to the boundaries of the development area meeting the requirements of KRS 65.6971;

(19) "Issuer" means a city, county, or an agency issuing increment bonds;

(20) "New revenues" means the amount of revenues received with respect to a development area in any calendar year after the activation date for a development area:

(a) Established under KRS 65.686, the ad valorem taxes other than the school and fire district portions of the ad valorem taxes received from real property generated from the development area and properties sold within the development area, and occupational license fees not otherwise used as a credit against an assessment, and all or a portion of assessments as determined by the governing body; or

(b) Satisfying the requirements of KRS 65.6971, the ad valorem taxes other than the school and fire district portions of the ad valorem taxes received from real property generated from the development area and properties sold within the development area; or

(c) Satisfying the requirements of KRS 65.6972, the ad valorem taxes, other than the school and fire district portions of the ad valorem taxes, received from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, or other such state taxes as may be determined by the *Department of* Revenue~~[Cabinet]~~ to be applicable to the project and specified in the grant contract, generated from the primary project entity within the development area minus relocation revenue;

(21) "Old revenues" means the amount of revenues received with respect to a development area:

(a) Established under KRS 65.686, in the last calendar year prior to the commencement date for the development area, revenues which constitute ad valorem taxes other than the school and fire district portions of ad valorem taxes received from real property in the development area and occupational license fees generated from the development area; or

(b) Satisfying the requirements of KRS 65.6971, in the last calendar year prior to the commencement date for the development area, revenues which constitute ad valorem taxes other than the school and fire district portions of ad valorem taxes received from real property in the development area; or

(c) Satisfying the requirements of KRS 65.6972, in the period of no longer than three (3) calendar years prior to the commencement date, the average as determined by the *Department of* Revenue~~[Cabinet]~~ to be a fair representation of revenues derived from ad valorem taxes, other than the school and fire district portions of ad valorem taxes, from real property in the development area, and Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as may be determined by the *Department of* Revenue~~[Cabinet]~~ as specified in the grant contract generated from the development area. With respect to this paragraph, if the development area was within an active enterprise zone for the period used by the *Department of* Revenue~~[Cabinet]~~ for measuring old revenues, then the calculation of old revenues shall include the amounts of ad valorem taxes, other than the school and fire district portions of ad valorem taxes, that would have been

generated from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as may be determined by the *Department of* Revenue~~[Cabinet]~~ as specified in the grant contract, were the development area not within an active enterprise zone. With respect to this paragraph, if the primary project entity generated old revenue prior to the commencement date in the development area or revenues were derived from the development area prior to the commencement date of the development area, then revenues shall increase each calendar year by the percentage increase of the consumer price index, if any;

(22) "Outstanding" means increment bonds that have been issued, delivered, and paid for, except any of the following:

(a) Increment bonds canceled upon surrender, exchange, or transfer, or upon payment or redemption;

(b) Increment bonds in replacement of which or in exchange for which other bonds have been issued; or

(c) Increment bonds for the payment, or redemption or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the ordinance or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, or otherwise, have been deposited, and credited in a sinking fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of increment bonds to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected bond holders has been filed with the issuer or its agent;

(23) "Primary project entity" means the entity responsible for control, ownership, and operation of the project within a development area satisfying the requirements of KRS 65.6972 which generates the greatest amount of new revenues or, in the case of a proposed development area satisfying the requirements of KRS 65.6972, is expected to generate the greatest amount of new revenues;

(24) "Project" means, for purposes of a development area:

(a) Established under KRS 65.686, any property, asset, or improvement certified by the governing body, which certification is conclusive as:

1. Being for a public purpose;

2. Being for the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, or any combination thereof, which is determined by the governing body establishing the development areas as contributing to economic development;

3. Being in or related to a development area; and

4. Having an estimated life or period of usefulness of one (1) year or more, including but not limited to real estate, buildings, personal property, equipment, furnishings, and site improvements and reconstruction, rehabilitation, renovation, installation, improvement, enlargement, and extension of property, assets, or improvements so certified as having an estimated life or period of usefulness of one (1) year or more;

(b) Satisfying the requirements of KRS 65.6971; an economic development project defined under KRS 154.22-010, 154.24-010, or 154.28-010; or a tourism attraction project defined under KRS 148.851; or

(c) Satisfying the requirements of KRS 65.6972, the development of facilities for:

1. The transportation of goods or persons by air, ground, water, or rail;

2. The transmission or utilization of information through fiber-optic cable or other advanced means;

3. Commercial, industrial, recreational, tourism attraction, or educational uses; or

4. Any combination thereof;

(25) "Relocation revenue" means the ad valorem taxes, other than the school and fire district portions of ad valorem taxes, from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as specified in the grant contract, received by a taxing district attributable to that portion of the existing operations of the primary project entity located in the Commonwealth and relocating to the development area satisfying the requirements of KRS 65.6972;

(26) "Special fund" means a special fund created in accordance with KRS 65.688 into which increments are to be deposited;

(27) "Taxing district" means a city, county, or other taxing district that encompasses all or part of a development area, or the Commonwealth, but does not mean a school district or fire district;

(28) "Termination date" means the date on which a development area shall cease to exist, which for purposes of a development area:

(a) Established under KRS 65.686, shall be for a period of no longer than twenty (20) years from the commencement date and set forth in the grant contract. Increment bonds shall not mature on a date beyond the termination date established by this paragraph; or

(b) Satisfying the requirements of KRS 65.6971, shall be for a period of no longer than twenty (20) years from the commencement date and set forth in the grant contract constituting a master agreement, except that for an addendum added to the master agreement for each project in the development area, the termination date may be extended to no longer than twenty (20) years from the date of each addendum; or

(c) Satisfying the requirements of KRS 65.6972, shall be for a period of no longer than twenty (20) years from the activation date of the grant contract. Increment bonds shall not mature on a date beyond the termination date established by this subsection;

(29) "Tourism development authority" means the Tourism Development Finance Authority as created in KRS 148.850; and

(30) "Project costs" mean the total private and public capital costs of a project.

Section 90. KRS 65.6971 is amended to read as follows:

(1) A city, county, or agency shall submit an application to the Cabinet for Economic Development for approval of a development area for infrastructure development which includes revenues from the Commonwealth, the standards for which the Cabinet for Economic Development and the Tourism Development Cabinet shall establish through their operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The Cabinet for Economic Development shall determine whether the development area described in the application constitutes a project of the type described in this section. The Cabinet for Economic Development, upon its determination, shall assign the application to the economic development authority or the tourism development authority, as appropriate, for further consideration and approval.

(2) A development area for purposes of infrastructure development shall:

(a) 1. Consist of at least fifty (50) acres of undeveloped land, unless approved otherwise by the economic development authority or the tourism development authority in consideration of the geography of the area; or

2. Consist of at least one (1) acre constituting a brownfield site; and

(b) 1. In the case of an economic development project, be under the control of, owned by, and operated by an agency at the commencement date; or

2. In the case of a tourism attraction project, be under the control of, leased by, owned by, or operated by an agency at the commencement date.

(3) With respect to each city, county, or agency that applies to the economic development authority or the tourism development authority for approval of a development area for infrastructure development, the economic development authority or the tourism development authority shall request materials and make all inquiries concerning the application the economic development authority or the tourism development authority deems necessary. Upon review of the application and requested materials, and completion of inquiries, the economic development authority or the tourism development authority may grant approval for:

(a) The development area for infrastructure development;

(b) Each project for which an application has been submitted to be located in the development area for infrastructure development, provided that each project approved for location in the development area for infrastructure development meets the criteria necessary in order to qualify for inducements under

subchapters 22, 24, or 28 of KRS Chapter 154, or satisfies the requirements of a tourism development attraction defined under KRS 148.851;

(c) The percentage of the Commonwealth's portion of the increment that the Commonwealth agrees to distribute to the agency each year during the term of the grant contract;

(d) The maximum amount of costs for infrastructure development for which the increment may be distributed to the agency; and

(e) The master agreement constituting a grant contract and any addendum for each project approved for location in the development area for infrastructure development.

(4) Prior to any approval by the economic development authority or the tourism development authority, the economic development authority or the tourism development authority shall have received an ordinance adopted by the city or county creating the development area and establishing the percentage of increment that the city and county are distributing each year to the agency for use in the infrastructure development of the development area for which economic development authority or the tourism development authority approval is sought. The economic development authority or the tourism development authority shall not approve a percentage of the Commonwealth's portion of the increment to be distributed to the agency each calendar year with respect to a development area for infrastructure development greater than the percentage approved by the city or county creating the development area.

(5) The maximum amount of increment available for development areas for infrastructure development is one hundred percent (100%).

(6) The terms and conditions of each grant contract, including the master agreement constituting a grant contract and any addenda, are subject to negotiations between the economic development authority or the tourism development authority and the other parties to the grant contract. The grant contract shall include but not be limited to the following provisions: the activation date, the taxes to be included in the calculation of the increment, the percentage increment to be contributed by each taxing district, the maximum amount of infrastructure development costs, a description of the development area, the termination date, subject to extension through each addendum, and the requirement of the agency to annually certify to the economic development authority or the tourism development authority as to the use of the increment for payment of infrastructure development costs.

(7) (a) Any agency that enters into a grant contract for the release of any increments that may arise during the period of a grant contract shall, after each calendar year a grant contract is in effect, notify each taxing district obligated under the grant contract that an increment is due, and, in consultation with each taxing district, determine the respective portion of the total increment due from each taxing district. The agency shall then present the total increment due from the Commonwealth under the grant contract to the *Department of* Revenue~~[Cabinet]~~ for certification.

1. Upon notice from the agency, each taxing district obligated under the grant contract, other than the Commonwealth, shall release to the agency the respective portion of the total increment due under the grant contract. The agency shall certify to the *Department of* Revenue~~[Cabinet]~~ on a calendar year basis the amount of the increment collected.

2. Upon certification of the total increment due from the Commonwealth by the *Department of* Revenue~~[Cabinet]~~, the *department*~~[Cabinet]~~ is authorized and directed to transfer the increment to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the increment. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the economic development authority or the tourism development authority shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the grant contract. Upon notification, the Finance and Administration Cabinet is authorized and directed to release to the agency the Commonwealth's portion of the total increment due under the grant contract.

(b) The *Department of* Revenue~~[Cabinet]~~ shall report to the economic development authority or the tourism development authority on a calendar year basis the amount of the total increment released to an agency.

(8) The *Department of* Revenue~~[Cabinet]~~ shall have the authority to establish operating procedures for the administration and determination of the Commonwealth's increment.

(9) The *Department of* Revenue~~[Cabinet]~~ or agency shall have no obligation to refund or otherwise return any of the increment to the taxpayer from whom the increment arose or is attributable. Further, no additional increment resulting from audit, amended returns or other activity for any period shall be transferred to the tax increment financing account after the initial release to the agency of the Commonwealth's increment for that period.

Section 91. KRS 65.6972 is amended to read as follows:

(1) A city, county, or agency shall submit an application to the Cabinet for Economic Development for approval of a development area, which includes revenues from the Commonwealth, and the related project, the standards for which the Cabinet for Economic Development and the Tourism Development Cabinet shall establish through their operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The Cabinet for Economic Development shall determine whether the development area and related project described in the application constitutes a project of the type described in KRS Chapter 154 for which the economic development authority shall have the right to approve the development area and related project or KRS Chapter 148 for which the tourism development authority shall have the right to approve the development area and related project. The Cabinet for Economic Development, upon its determination, shall assign the application to the economic development authority or the tourism development authority, as appropriate, for further consideration and approval.

(2) A project otherwise satisfying the requirements of the project as defined in KRS 65.680, in order to qualify the project and related development area, in addition shall satisfy all of the following requirements for a project:

(a) Represent new economic activity in the Commonwealth;

(b) Result in a minimum capital investment of ten million dollars ($10,000,000);

(c) Result in the creation of a minimum of twenty-five (25) new full-time jobs for Kentucky residents to be held by persons subject to the personal income tax of the Commonwealth within two (2) years of the date of the final resolution authorizing the development area and the project;

(d) Result in a net positive economic impact to the economy of the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses;

(e) Generate a minimum of twenty-five percent (25%) of the total revenues derived from the project attributable to sources outside of the Commonwealth during each year a grant contract is in effect;

(f) Result in a unique contribution to or preservation of the economic vitality and quality of life of a region of the Commonwealth; and

(g) Not be primarily devoted to the retail sale of goods.

(3) After assignment of the application for the project and related development area by the Cabinet for Economic Development:

(a) The economic development authority or the tourism development authority, as appropriate, shall engage the services of a qualified independent consultant to analyze data related to the project and the development area, who shall prepare a report for the economic development authority or the tourism development authority, as appropriate, with the following findings:

1. The percentage of revenues derived from the development area which are generated from business not located in the Commonwealth;

2. The estimated amount of increment the development area is expected to generate over a twenty (20) year period from the projected activation date;

3. The estimated amount of ad valorem taxes, other than the school or fire district portion of ad valorem taxes, from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, or other such state taxes which would be displaced within the Commonwealth, to reflect economic activity which is being shifted over the twenty (20) year period;

4. The estimated increment the development area is expected to generate over the twenty (20) year period, equal to the estimated amount set forth in paragraph (a)2. of this subsection minus the estimated amount set forth in paragraph (a)3. of this subsection; and

5. The project or development area will not occur if not for the designation of the development area and granting of increments by the Commonwealth to the development area.

(b) The independent consultant shall consult with the economic development authority or the tourism development authority, as appropriate, the Office of State Budget Director *and*~~[,]~~ the Finance and Administration Cabinet~~[, and the Revenue Cabinet]~~ in the development of the report. The Office of State Budget Director *and*~~[,]~~ the Finance and Administration Cabinet~~[, and the Revenue Cabinet]~~ shall agree as to 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 economic development authority or the tourism development authority, as appropriate, the Office of State Budget Director *and*~~[,]~~ the Finance and Administration Cabinet~~[, and the Revenue Cabinet]~~ shall certify whether there is a projected net positive economic impact to the Commonwealth and the expected amount of incremental state revenues from the project to the economic development authority or tourism development authority, as appropriate. Approval shall not be granted if it is determined that there is no projected net positive economic impact to the Commonwealth.

(c) The primary project entity shall pay all costs associated with the independent consultant's report.

(4) With respect to each city, county, or agency that applies for approval of a project and development area, the economic development authority or the tourism development authority, as appropriate, shall request materials and make all inquiries concerning the application the economic development authority or the tourism development authority, as appropriate, deems necessary. Upon review of the application and requested materials, and completion of inquiries, the economic development authority or the tourism development authority, as appropriate, may by resolution grant approval for:

(a) The development area and project for which an application has been submitted;

(b) The percentage of the Commonwealth's portion of the increment that the Commonwealth agrees to have distributed to the agency each year during the term of the grant contract;

(c) The maximum amount of costs for the project for which the increment may be distributed to the agency; and

(d) The grant contract.

(5) Prior to any approval by the economic development authority or the tourism development authority, as appropriate, the economic development authority or the tourism development authority shall have received an ordinance adopted by the city or county creating the development area and approving the project and establishing the percentage of increment that the city and county are distributing each year to the agency to pay for the development area for which economic development authority or tourism development authority approval is sought. The economic development authority or the tourism development authority, as appropriate, shall not approve a percentage of the Commonwealth's portion of the increment to be distributed to the agency each year with respect to a development area and project greater than the percentage approved by the city or county creating the development area.

(6) The amount of increment available for a development area shall be no more than eighty percent (80%) per year, but shall in no case exceed twenty-five percent (25%) of the project costs during the term of the grant agreement.

(7) The terms and conditions of each grant contract are subject to negotiations between the economic development authority or the tourism development authority, as appropriate, and the other parties to the grant contract. The grant contract shall include but not be limited to the following provisions: the activation date, the agreed taxes to be included in the calculation of the increment, the percentage increment to be contributed by the Commonwealth and other taxing districts, the maximum amount of project costs, a description of the development area and the project, the termination date, and the requirement that the agency annually certify to the economic development authority or tourism development authority, as appropriate, as to the use of the increment for payment of project costs in the development area.

(8) The agency responsible for the development area that enters into the grant contract shall, after each year the grant contract is in effect, certify to the economic development authority or the tourism development authority, as appropriate:

(a) The amount of the increment used during the previous calendar year for the project costs; and

(b) That more than twenty-five percent (25%) of the total revenues derived from the project during the previous calendar year were attributable to sources outside the Commonwealth.

(9) (a) Any agency that enters into a grant contract for the release of any increments that may arise during the period of a grant contract shall, after each calendar year a grant contract is in effect, notify each taxing district obligated under the grant contract that an increment is due. In consultation with each taxing district, the agency shall determine the respective portion of the total increment due from each taxing district, and the determination of the agency shall be reviewed by an independent certified public accountant. The agency shall submit to the *Department of* Revenue~~[Cabinet]~~ for certification its determination with respect to the total increment due together with the review of the certified public accountant and detailed information concerning ad valorem taxes, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as may be determined by the *Department of* Revenue~~[Cabinet]~~, including withholding taxes of employees of each taxpayer located in the development area.

1. Upon notification to the agency of the total increment by the *Department of* Revenue~~[Cabinet]~~ and notice from the agency, each taxing district obligated under the grant contract, other than the Commonwealth, shall release to the agency the respective portion of the total increment due under the grant contract. The agency shall certify to the *Department of* Revenue~~[Cabinet]~~ on a calendar year basis the amount of the increments collected.

2. Upon certification of the total increment due from the Commonwealth by the *Department of* Revenue~~[Cabinet]~~, the *department*~~[Cabinet]~~ is authorized and directed to transfer the increment to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the increment. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the economic development authority or the tourism development authority, as appropriate, shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the grant contract. Upon notification, the Finance and Administration Cabinet is authorized and directed to release to the agency the Commonwealth’s portion of the total increment due under the grant contract.

(b) The *Department of* Revenue~~[Cabinet]~~ shall report to the economic development authority or the tourism development authority, as appropriate, on a calendar year basis the amount of the total increment released to an agency.

(10) The *Department of* Revenue~~[Cabinet]~~ shall have the authority to establish operating procedures for the administration and determination of the Commonwealth's increment.

(11) The *Department of* Revenue~~[Cabinet]~~ or agency shall have no obligation to refund or otherwise return any of the increment to the taxpayer from whom the increment arose or is attributable. Further, no additional increment resulting from audit, amended returns or other activity for any period shall be transferred to the trust account established under subsection (9)(a)2. of this section and administered by the Finance and Administration Cabinet after the initial release to the agency of the Commonwealth’s increment for that period.

Section 92. KRS 65.7621 is amended to read as follows:

As used in KRS 65.7621 to 65.7643, unless the context requires otherwise:

(1) "Administrator" means the *executive director of the Office of the 911 Coordinator within the Commonwealth Office of Technology functioning as the* state administrator of CMRS emergency telecommunications *under Section 22 of this Act*;

(2) "Automatic location identification", or "ALI" means an enhanced 911 service capability that enables the automatic display of information defining the approximate geographic location of the wireless telephone used to place a 911 call and includes the term "pseudo-automatic number identification;"

(3) "Automatic number identification", or "ANI" means an enhanced 911 service capability that enables the automatic display on an ALI screen of the ten-digit, or equivalent, wireless telephone number used to place a 911 call;

(4) "CMRS" means commercial mobile radio service under Sections 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 U.S.C. secs. 151 et seq., and the Omnibus Budget Reconciliation Act of 1993, as it existed on August 10, 1993. The term includes the term "wireless" and service provided by any wireless real time two-way voice communication device, including radio-telephone communications used in cellular telephone service, personal communications service, and the functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communications service, or a network radio access line;

(5) "CMRS Board" or "board" means the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky;

(6) "CMRS connection" means a mobile handset telephone number assigned to a CMRS customer;

(7) "CMRS customer" means a person to whom a mobile handset telephone number is assigned and to whom CMRS is provided in return for compensation;

(8) "CMRS Fund" means the commercial mobile radio service emergency telecommunications fund;

(9) "CMRS provider" means a person or entity who provides CMRS to an end user, including resellers;

(10) "CMRS service charge" means the CMRS emergency telephone service charge levied under KRS 65.7629(3) and collected under KRS 65.7635;

(11) "FCC order" means the Order of the Federal Communications Commission, FCC Docket No. 94-102, adopted effective October 1, 1996, including any subsequent amendments or modifications thereof;

(12) "Local exchange carrier" or "LEC" means any person or entity who is authorized to provide telephone exchange service or exchange access in the Commonwealth;

(13) "Local government" means any city, county, charter county, or urban-county government of the Commonwealth, or any other governmental entity maintaining a PSAP;

(14) "Mobile telephone handset telephone number" means the ten (10) digit number assigned to a CMRS connection;

(15) "Proprietary information" means information held as private property, including customer lists and other related information, technology descriptions, technical information, or trade secrets;

(16) "Pseudo-automatic number identification" means a wireless enhanced 911 service capability that enables the automatic display of the number of the cell site or cell face;

(17) "Public safety answering point" or "PSAP" means a communications facility that is assigned the responsibility to receive 911 calls originating in a given area and, as appropriate, to dispatch public safety services or to extend, transfer, or relay 911 calls to appropriate public safety agencies;

(18) "Service supplier" means a person or entity who provides local exchange telephone service to a telephone subscriber; and

(19) "Wireless enhanced 911 system," "wireless E911 system," "wireless enhanced 911 service," or "wireless E911 service" means an emergency telephone system that provides the user of the CMRS connection with wireless 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification features in accordance with the requirements of the FCC order.

Section 93. KRS 65.7623 is amended to read as follows:

(1) There is hereby created the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky, the "CMRS Board," consisting of eight (8) members, appointed by the Governor as follows: three (3) members shall be employed by or representative of the interest of CMRS providers; one (1) member shall be a mayor of a city of the first or second class or urban-county government or his or her designee containing a public safety answering point; one (1) nonvoting member shall be appointed from a list of local exchange landline telephone companies' representatives submitted by the Kentucky Telephone Association; and one (1)

member shall be appointed from lists of candidates submitted to the Governor by the Kentucky Emergency Number Association and the Association of Public Communications Officials. The commissioner of the State Police, or the commissioner's designee, and the CMRS emergency telecommunications administrator also shall be members of the board. Any vacancy on the board shall be filled in the same manner as the original appointment.

(2) The commissioner and administrator shall serve by virtue of their office. The other members shall be appointed no later than August 15, 1998, for a term of four (4) years and until their successors are appointed and qualified, except that of the first appointments, one (1) shall be for a term of one (1) year, one (1) shall be for a term of two (2) years, one (1) for a term of three (3) years, and two (2) shall be for a term of four (4) years.

(3) In addition to the administrator,~~[appointed by the Governor under KRS 65.7625, and other staff authorized under KRS 65.7629,]~~ the Finance and Administration Cabinet shall provide staff services and carry out administrative duties and functions as directed by the board. The board shall be attached to the *Commonwealth Office of*~~[Governor's Office for]~~ Technology for administrative purposes only and shall operate as an independent entity within state government.

(4) The board members shall serve without compensation but shall be reimbursed in accordance with KRS 45.101 for expenses incurred in connection with their official duties as members of the board.

(5) All administrative costs and expenses incurred in the operation of the board, including payments under subsection (4) of this section, shall be paid from that portion of the CMRS fund that is authorized under KRS 65.7631 to be used by the board for administrative purposes.

Section 94. KRS 65.7625 is amended to read as follows:

(1) The *executive director of the Office of the 911 Coordinator shall be the*~~[Governor shall appoint a]~~ state administrator of commercial mobile radio service emergency telecommunications~~[, subject to confirmation by the Senate, from a list of no more than three (3) candidates recommended by the CMRS Board. The administrator shall serve at the pleasure of the Governor. Vacancies shall be filled in the same manner as the original appointment]~~. The CMRS Board shall set the administrator's compensation, which shall be paid from that portion of the CMRS fund that is authorized under KRS 65.7631(1) to be used by the board for administrative purposes.

(2) The administrator of CMRS emergency telecommunications shall serve as a member of the CMRS Board and, as the coordinator and administrative head of the board, shall conduct the day-to-day operations of the board.

(3) The administrator shall, with the advice of the board, coordinate and direct a statewide effort to expand and improve wireless enhanced emergency telecommunications capabilities and responses throughout the state, including but not limited to the implementation of wireless E911 service requirements of the FCC order and rules and regulations adopted in carrying out that order. In this regard, the administrator shall:

(a) Obtain, maintain, and disseminate information relating to emergency telecommunications technology, advances, capabilities, and techniques;

(b) Coordinate and assist in the implementation of advancements and new technology in the operation of emergency telecommunications in the state; and

(c) Implement compliance throughout the state with the wireless E911 service requirements established by the FCC order and any rules or regulations which are or may be adopted by the Federal Communications Commission in carrying out the FCC order.

Section 95. KRS 67A.882 is amended to read as follows:

(1) Proposals for the construction of the project shall be solicited upon the basis of submission of sealed, competitive bids after advertisement by publication pursuant to KRS Chapter 424, following adoption of the ordinance of determination and expiration of the permissive litigation period, or alternatively, the conclusion of litigation in a manner favorable to the project.

(2) After all costs of the project have been determined upon the basis of the construction bidding, the costs shall be apportioned among the owners of benefited property pursuant to the method of assessment previously determined in the ordinance of initiation and the ordinance of determination. However, in determining the apportionment of individual costs for purposes of affording to the owners of benefited property the privilege of paying the assessment levies in full on a lump-sum basis, the urban-county government shall exclude amounts required for the creation of the debt service reserve fund, capitalized interest costs, and any bond discount

which the government may allow in connection with the sale of bonds to provide funds for the costs of construction not paid initially by the owners of benefited properties on a lump-sum basis.

(3) The owners of benefited property shall be notified in writing of the exact amount levied against their individual properties, which amount may, at the option of each owner, be paid in full on a lump-sum basis within thirty (30) days. Such owners shall be notified that in the event they exercise the option to pay in full on a lump-sum basis and in the event any refund of lump-sum payments or of interest earned on lump-sum payments is subsequently made, it shall be paid to the owners of the benefited properties for which lump-sum payments have been made as determined at the date the appropriate ordinance under either KRS 67A.894 or subsection (5) of this section is adopted. The statement submitted to such owners of benefited property shall additionally advise such owners that in the event such owners do not elect to pay the special improvement benefit assessment in full within the period of thirty (30) days from receipt, the urban-county government shall issue bonds pursuant to KRS 67A.871 to 67A.894 for the purpose of providing the cost of construction of the project, including the debt service reserve fund, if paid from bond proceeds, capitalized interest costs, any bond discount, together with all other costs, as the term is defined in KRS 67A.871(5). The owners of the benefited property shall further be advised that bonds and the interest thereon shall be amortized by annual improvement benefit assessment levies against all benefited properties which have not made lump-sum payments in accordance with the method of apportionment provided by the ordinance of initiation and the ordinance of determination.

(4) At the conclusion of the thirty (30) day permissive lump-sum payment period, the urban-county council shall determine the aggregate principal amount of improvement benefit assessments paid in full by owners of benefited property; shall order the deposit of the moneys in a trust account the principal of which shall be used solely to pay the costs of construction of the project; shall aggregate all unpaid improvement benefit assessments for purposes of determining the principal amount of bonds to be issued by the government to provide the costs of the project; shall compute the debt service reserve fund in respect to the bonds, if the fund is to be capitalized from bond proceeds; shall determine the bond discount and capitalized interest which shall be applicable to the issue of bonds; and shall proceed to complete the financing of the costs of construction of the project through the adoption of the ordinance of bond authorization as provided in KRS 67A.883 and the sale of bonds authorized pursuant thereto.~~[Provided, however, that the ordinance of bond authorization may, as provided in KRS 67A.884, provide that, in lieu of issuing bonds, the government may contract with the Kentucky Pollution Abatement Authority for the financing of the project, in which latter event all procedures with respect to the annual assessment of benefited properties shall continue in full force and effect, but the urban-county government shall secure funding for the project through the Kentucky Pollution Abatement Authority in lieu of issuing bonds and shall pledge to and pay to the authority the annual improvement benefit assessment levies and enforce them for the security of the financing.]~~

(5) If an urban-county government has taken steps under KRS 67A.871 to 67A.893 to provide for, construct and finance any project, and finally determines, by appropriate ordinance, that the project is essentially completed, the legislative body of the urban-county government may, in its discretion, refund any part, or all, of the interest earned on lump-sum payments, pro rata, to the current owners of the benefited properties which paid on a lump-sum basis, as determined at the date the ordinance determining the project is essentially completed is adopted.

Section 96. KRS 68.245 is amended to read as follows:

(1) The property valuation administrator shall submit an official estimate of real and personal property and new property assessment as defined in KRS 132.010, to the county judge/executive by April 1 of each year.

(2) No county fiscal court shall levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon such tax by the voters of that county, which exceeds the compensating tax rate defined in KRS 132.010, until the taxing district has complied with the provisions of subsection (5) of this section.

(3) The state local finance officer shall certify to each county judge/executive, by June 30 of each year, the following:

(a) The compensating tax rate, as defined in KRS 132.010, and the amount of revenue expected to be produced by it;

(b) The tax rate which will produce no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 and the amount of revenue expected to be produced by it.

(4) Real and personal property assessment and new property determined in accordance with KRS 132.010 shall be certified to the state local finance officer by the *Department of* Revenue~~[Cabinet]~~ upon completion of action on property assessment data.

(5) (a) A county fiscal court, proposing to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon the tax by the voters of that county, which exceeds the compensating tax rate defined in KRS 132.010, shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) County fiscal courts of counties containing a city of the first class proposing to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon the tax by the voters of that county, which exceeds the compensating tax rate defined in KRS 132.010, shall hold three (3) public hearings to hear comments from the public regarding the proposed tax rate. The hearings shall be held in three (3) separate locations; each location shall be determined by dividing the county into three (3) approximately equal geographic areas, and identifying a suitable facility as near as possible to the geographic center of each area.

(c) The county fiscal court shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The tax rate levied in the preceding year, and the revenue produced by that rate;
2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;
3. The compensating tax rate and the revenue expected from it;
4. The revenue expected from new property and personal property;
5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;
6. A time and place for the public hearings which shall be held not less than seven (7) days nor more than ten (10) days, after the day that the second advertisement is published;
7. The purpose of the hearing; and
8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained therein.

(d) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(e) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The county fiscal court may set reasonable time limits for testimony.

(6) (a) That portion of a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon a tax by the voters of that county, levied by an action of a county fiscal court which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 shall be subject to a recall vote or reconsideration by the taxing district, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The county fiscal court shall, within seven (7) days following adoption of an ordinance to levy a tax rate, excluding any special tax rate which may be levied at the request of a county community improvement district pursuant to KRS 107.350 and 107.360, following a favorable vote upon a tax by

the voters of that county, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the county fiscal court has adopted a rate;
2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and
3. The name, address, and telephone number of the county clerk, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

Section 97. KRS 68.260 is amended to read as follows:

(1) The proposed county budget, tentatively approved by the fiscal court and approved by the state local finance officer as to form and classification, shall be submitted to the fiscal court for adoption not later than July 1 of each year. The budget as presented and amended shall be adopted as of July 1. The county judge/executive shall cause a copy of the proposed budget to be posted in a conspicuous place in the courthouse near the front door, and be published pursuant to KRS Chapter 424, at least seven (7) days before final adoption by the fiscal court.

(2) Any taxpayer or group of taxpayers may petition the fiscal court in respect to the budget or any part thereof before final adoption.

(3) If the fiscal court rejects any part of the proposed budget, it shall make the changes in the nature and amount of funds a majority of the court considers desirable, but it has no power to make any change in the form or classification of the budget units or subdivisions of units.

(4) The fiscal court may amend the budget on the basis of the assessment from the *Department of* Revenue~~[Cabinet]~~. The fiscal court shall finalize the budget within thirty (30) days of the receipt of the certified assessment.

Section 98. KRS 75.040 is amended to read as follows:

(1) (a) Upon the creation of a fire protection district or a volunteer fire department district as provided in KRS 75.010 to 75.031, the trustees of a district are authorized to establish and operate a fire department and emergency ambulance service as provided in subsection (6) of this section and to levy a tax upon the property in the district, including that property within cities in a fire protection district or a volunteer fire department district, as provided by KRS 75.010(2) provided that the property is subject to county tax, and not exceeding ten cents ($0.10) per one hundred dollars ($100) of valuation as assessed for county taxes, for the purpose of defraying the expenses of the establishment, maintenance, and operation of the fire department or to make contracts for fire protection for the districts as provided in KRS 75.050. The rate set in this subsection shall apply, notwithstanding the provisions of KRS 132.023.

(b) A fire protection district or a volunteer fire department district that establishes and operates an emergency ambulance service and is the primary service provider in the district may levy a tax upon the property in the district not to exceed twenty cents ($0.20) per one hundred dollars ($100) of valuation as assessed for county taxes, for the purpose of defraying the expenses of the establishment, maintenance, and operation of the fire department and emergency ambulance service or to make contracts for fire protection for the districts as provided in KRS 75.050. The rate set in this subsection shall apply, notwithstanding the provisions of KRS 132.023.

(2) The establishment, maintenance, and operation of a fire protection district or volunteer fire department district shall include, but not be limited to, the following activities:

(a) Acquisition and maintenance of adequate fire protection facilities;

(b) Acquisition and maintenance of adequate firefighting equipment;

(c) Recruitment, training, and supervision of firefighters;

(d) Control and extinguishment of fires;

(e) Prevention of fires;

(f) Conducting fire safety activities;

(g) Payment of compensation to firefighters and providing the necessary support and supervisory personnel;

(h) Payment for reasonable benefits or a nominal fee to volunteer firefighters when benefits and fees do not constitute wages or salaries under KRS Chapter 337 and are not taxable as income to the volunteer firefighters under Kentucky or federal income tax laws; and

(i) The use of fire protection district equipment for activities which are for a public purpose and which do not materially diminish the value of the equipment.

(3) The property valuation administrator of the county or counties involved, with the cooperation of the board of trustees, shall note on the tax rolls the taxpayers and valuation of the property subject to such assessment. The county clerk shall compute the tax on the regular state and county tax bills in such manner as may be directed by regulation of the *Department of Revenue*~~[revenue cabinet]~~.

(4) Such taxes shall be subject to the same delinquency date, discounts, penalties, and interest as are applied to the collection of ad valorem taxes and shall be collected by the sheriff of the county or counties involved and accounted for to the treasurer of the district. The sheriff shall be entitled to a fee of one percent (1%) of the amount collected by him.

(5) Nothing contained in this subsection shall be construed to prevent the trustees of a fire protection district located in a city or county which provides emergency ambulance service from using funds derived from taxes for the purpose of providing supplemental emergency medical services so long as the mayor of the city or the county judge/executive of the county, as appropriate, certifies to the trustees in writing that supplemental emergency medical services are reasonably required in the public interest. For the purposes of this subsection, "supplemental emergency medical services" may include EMT, EMT-D, and paramedic services rendered at the scene of an emergent accident or illness until an emergency ambulance can arrive at the scene.

(6) The trustees of those fire protection districts or volunteer fire department districts whose districts or portions thereof do not receive emergency ambulance services from an emergency ambulance service district or, whose districts are not being served by an emergency ambulance service operated or contracted by a city or county government, may develop, maintain, and operate or contract for an emergency ambulance service as part of any fire department created pursuant to this chapter. No taxes levied pursuant to subsection (1) of this section shall be used to develop, maintain, operate, or contract for an emergency ambulance service until the tax year following the year the trustees of the district authorize the establishment of the emergency ambulance service.

Section 99. KRS 76.278 is amended to read as follows:

(1) In order to establish a comprehensive sewage and sewage treatment system, or storm water and surface drainage system, or both, within the sanitation tax district, the sanitation tax district through its board may levy an ad valorem tax upon the real property in the district, not exceeding limits designated by the Constitution of the Commonwealth. Provided, however, that notice stating the amount of the proposed tax and the area to be affected be published in a newspaper of bona fide circulation as provided in KRS 424.130. Provided, further, that no resolution of the board imposing an ad valorem tax shall go into effect until the expiration of thirty (30) days after the first publication of the notice. If during the thirty (30) days next following the first notice of said resolution, a petition signed by a number of constitutionally qualified voters equal to fifteen percent (15%) of the votes cast within the area affected at the last preceding general election, stating the residence of each signer, and verified as to signatures and residence by the affidavits of one (1) or more persons is presented to the county judge/executive protesting against passage of such resolution or if the fiscal court passes a resolution suspending the tax, the resolution shall be suspended from going into effect. The county judge/executive shall notify the board of the sanitation tax district of the receipt of the petition or of the suspension of the resolution or both. If the resolution is not repealed by the board, the board shall submit to the voters of the area to be taxed, at the next regularly-scheduled November election, the question as to whether the tax shall be levied. The question as it will appear on the ballot shall be filed with the county clerk not later than the second Tuesday in August preceding the regular election. The question shall be so framed that the voter may by his vote answer "for" or "against." If a majority of the votes cast upon the question oppose its passage, the resolution shall not go into effect. If a majority of the votes cast upon the question favor its passage, the resolution shall go into effect as of January 1 of the year succeeding the year in which the election is held.

(2) When such tax levy has been fully approved, the property valuation administrator, with the cooperation of the board shall note on the tax rolls the taxpayers and valuation of the property subject to such tax. The county clerk shall compute the tax on the regular state and county tax bills in such manner as may be directed by regulation of the *Department of* Revenue~~[Cabinet]~~.

(3) Such ad valorem taxes shall be collected by the sheriff in accordance with the general law and accounted for to the board. The sheriff shall be entitled to a fee of one percent (1%) of the amount collected.

Section 100. KRS 91.4883 is amended to read as follows:

(1) Within thirty (30) days after the filing with the Circuit Court clerk of an enforcement suit for the collection of unpaid taxes under the provisions of KRS 91.484 to 91.527, the collector shall cause a notice of enforcement to be published two (2) times, once each week, during successive weeks, and on the same day of each week, otherwise in accordance with the provisions of KRS Chapter 424.

(2) Such notice shall be in substantially the following form:

NOTICE OF ENFORCEMENT OF LIEN FOR DELINQUENT LAND TAXES BY ACTION IN REM

Public Notice is hereby given that on the ..... day of ....., 19....., the City of ..... of ..... County, Kentucky, filed a petition, being Action Number ....., in the Circuit Court of ..... County, Kentucky, at ..... (stating the city), for the enforcement of liens for delinquent land taxes against the real estate situated in such city, all as described in said petition.

The object of said suit is to obtain from the court a judgment enforcing the city's tax and other liens against such real estate and ordering the sale of such real estate for the satisfaction of said liens thereon (except right of redemption in favor of the United States of America if any), including principal, interest, penalties, and costs. Such action is brought against the real estate only and no personal judgment shall be entered therein.

The count number assigned by the city to each parcel of real estate, a description of each such parcel by street address and the property valuation administrator's tax parcel number (district, block, lot and sub-lot), a statement of the total principal amount of all delinquent city tax bills against each such parcel of real estate, all of which, as to each parcel, is more fully set out and mentioned by count in the aforesaid petition, and the name of any taxing authority or person of record owning or holding any tax bill or claiming any right, title, or interest in or to, or lien upon, any such parcel of real estate as set out in the petition, are respectively as follows:

(Here set out the respective count numbers, property descriptions, names of taxpayers of record and statements of total principal amounts of tax bills, and names of those other interested persons of record next above referred to.)

The total principal amounts of delinquent taxes set out in this notice do not include the lawful interest, penalties, and costs which have accrued against the respective parcels of real estate.

Any person or taxing authority owning or holding any tax bill or claiming any right, title, or interest in or to, or lien upon, any such parcel of real estate must file an answer to such suit in the office of the Circuit Court clerk of ..... county in ....., and a copy of such answer with the city of ..... in accordance with the Kentucky Rules of Civil Procedure, on or before the ..... day of ....., 19 ....., and in such answer shall set forth in detail the nature and the amount of such interest and any defense or objection to the enforcement of the tax liens, or any affirmative relief he or it may be entitled to assert with respect thereto.

Any person having any right, title, or interest in or to, or lien upon, any parcel of such real estate may have the city's claims against such parcel dismissed from the action by paying all of the sums mentioned therein to the city of ..... including principal, interest, penalties, and costs then due, at any time prior to the enforcement sale of such real estate by the master commissioner.

In the event of failure to answer on or before the date herein fixed as the last day for filing answer in the suit, by any person having the right to answer, such person shall be forever barred and foreclosed as to any defense or objection he might have to the enforcement of such liens for delinquent taxes and the judgment of enforcement may be taken by default. Redemption may be made for a period of sixty (60) days after the master commissioner's enforcement sale, if the sale price is less than the parcel's current assessed value as certified by the *Department of* Revenue~~[Cabinet]~~. Each such person having any right, title, or interest in or to, or any lien upon, any such parcel of real estate described in the petition so failing to answer or redeem, as aforesaid, shall be forever barred and foreclosed of any right, title, or interest in or to, or lien upon, or any equity of redemption in said real estate.

....., Kentucky

(name of city)

.....

Attorney

.....

.....

.....

Address

.....

Phone

.....

Date of first publication

Section 101. KRS 91.4885 is amended to read as follows:

(1) The court shall order the master commissioner to sell, pursuant to the provisions of KRS 426.560 to 426.715, except as otherwise provided in this section, each parcel separately by individual count number. The court shall further order that a report of the sale be made by the master commissioner to the court for further proceedings under the provisions of KRS 91.484 to 91.527.

(2) Prior to the master commissioner's setting each parcel for sale pursuant to court order, the collector shall file with the Circuit Court clerk an affidavit as to the most recent certified tax assessment of each parcel to be sold. The most recent certified assessment of a property shall be the property valuation administrator's last assessment which shall have been certified by the Kentucky *Department of* Revenue~~[Cabinet]~~ to the county clerk, as required by KRS 133.180.

(3) The most recent certified assessment as sworn to in the affidavit furnished by the collector shall be used in all actions brought under KRS 91.484 to 91.527 to determine the owner's equity of redemption as provided by KRS 91.511(2).

Section 102. KRS 91.511 is amended to read as follows:

(1) At any time prior to the sale of the property any person having any right, title or interest in, or lien upon, any parcel of real estate described in the petition may discharge any city lien or satisfy a judgment in favor of the city as to said parcel of real estate by paying to the collector all of the sums mentioned therein, including the principal, interest, penalties, and costs then due.

(2) If the property is sold pursuant to the judgment or order of the court and does not bring its most recent assessed value certified by the *Department of* Revenue~~[Cabinet]~~ to the county clerk as required by KRS 133.180, the owner may redeem it within sixty (60) days from the day of the sale, by paying the purchaser the original purchase money and interest at eighteen percent (18%) per annum. Any owner who redeems his land shall take a receipt from the purchaser and lodge it with the clerk of the court. The receipt shall be entered upon the records of the court.

(3) The owner may tender the redemption money to the purchaser, his agent or attorney, if found in the county where the land lies or in the county in which the judgment was obtained or order of sale made. If the money is refused, or if the purchaser does not reside in either of the counties, the owner may, before the expiration of the right of redemption, go to the clerk of the court in which the judgment was rendered or the order made, and make affidavit of the tender and refusal, or that the purchaser or his agent or attorney do not reside in either of the counties. He may then pay to the clerk the redemption money, and the clerk shall give receipt therefor and file the affidavit among the papers of the action.

(4) When the right of redemption exists, the owner may remain in possession of the property until it expires. Real property so sold shall not be conveyed to the purchaser until the right of redemption has expired. If it is redeemed, the sale shall, from and after the redemption or from and after the deposit of the redemption money with the clerk, be null and void.

(5) In the event of failure to redeem within the period provided for redemption, the owner or any other party in interest shall be barred forever of all his right, title and interest in and to the parcel of real estate described in the petition.

(6) Upon redemption, as permitted by this section, the person redeeming shall be entitled to a certificate of redemption from the collector describing the property in the same manner as it is described in the petition and the collector shall thereupon note on his records the word "redeemed" and the date of the payment opposite the description of the parcel of real estate.

Section 103. KRS 96.820 is amended to read as follows:

(1) For the purposes of this section, unless the context requires otherwise:

(a) "Taxing jurisdiction" shall mean each county, each school district, each municipality, and each other special taxing district located within the state.

(b) "State" shall mean the Commonwealth of Kentucky.

(c) "Tax equivalent" shall mean the amount in lieu of taxes computed according to this section which is required to be paid by each board to the state and to each taxing jurisdiction in which the board operates and required by subsection (11) of KRS 96.570 to be included in resale rates.

(d) "Tax year" shall mean the twelve (12) calendar-month period ending with December 31.

(e) "Current tax rate" shall mean the actual levied ad valorem property tax rate of the state and of each taxing jurisdiction which is applicable to all property of the same class as a board's property subject to taxation for the tax year involved.

(f) "Book value of property" or "book value of property owned by the board" shall mean the sum of:

1. The original cost (less reasonable depreciation or retirement reserve) of a board's electric plant in service on December 31 of the immediately preceding calendar year located within the state, used and held for use in the transmission, distribution, and generation of electric energy, and

2. The cost of the material and supplies owned by a board on December 31 of the immediately preceding calendar year. For the purpose of this definition, "electric plant in service" shall mean those items included in the "electric plant in service" account prescribed by the Federal Energy Regulatory Commission uniform system of accounts for electric utilities, and "material and supplies" shall mean those items included in the accounts grouped under the heading "material and supplies" in the said system of accounts.

(g) "Adjusted book value of property" or "adjusted book value of property owned by the board" shall mean the book value of property owned by the board excluding manufacturing machinery as interpreted by the *Department of* Revenue~~[Cabinet]~~ for franchise tax determination purposes.

(h) The "adjustment factor" shall be one hundred twenty-five percent (125%) for the tax year 1970. For each tax year thereafter, it shall be the duty of the *Department of* Revenue~~[Cabinet]~~ to compute the adjustment factor for that tax year as follows: For each five (5) percentage points or major fraction thereof by which the adjustment ratio for electric utility property for the immediately preceding tax year exceeded or was less than one hundred sixteen percent (116%), five (5) percentage points shall be added to or subtracted from one hundred twenty-five percent (125%). For the purposes of this computation, "adjustment ratio for electric utility property" shall mean the ratio of total assessed value to total property value for all public service corporations distributing electric energy to more than fifty thousand (50,000) retail electric customers within the state. "Total assessed value" shall mean the total actual cash value assigned by the *Department of* Revenue~~[Cabinet]~~ for ad valorem property tax purposes to the property of such corporations located within the state (properly adjusted for property under construction). "Total property value" shall mean the sum of:

1. The depreciated original cost of the total utility plant in service of such corporations within the state, and

2. The book value of material and supplies of such corporations located within the state, both as derived from published reports of the Federal Energy Regulatory Commission, or in the absence thereof, from information provided to the *Department of* Revenue~~[Cabinet]~~ by such corporations.

(i) "Electric operations" shall mean all activities associated with the establishment, development, administration, and operation of any electric system and the supplying of electric energy and associated services to the public, including without limitation the generation, purchase, sale, and resale of electric energy and the purchase, use, and consumption thereof by ultimate consumers.

(2) It shall be the duty of each board, on or before April 30, to certify to the *Department of* Revenue~~[Cabinet]~~ the book value of property owned by the board and the adjusted book value of property owned by the board and located within the state and within each taxing jurisdiction in which the board operates. A copy of the certification shall also be sent by the board to each such taxing jurisdiction. The book value of property and adjusted book value of property shall be determined, and the books and records of the board shall be kept in accordance with standard accounting practices, and the books and records of each board shall be subject to inspection by the *Department of* Revenue~~[Cabinet]~~ and by representatives of the affected taxing jurisdictions and to adjustment by the *Department of* Revenue~~[Cabinet]~~ if found not to comply with the provisions of this section. Upon the receipt of the required certification from a board, the *Department of* Revenue~~[Cabinet]~~ shall make any inspection and adjustment, hereinabove authorized, as it deems necessary, and no earlier than September 1 of each year the *Department of* Revenue~~[Cabinet]~~ shall certify to the board and to the county clerk of each county in which the board operates the book value of property owned by the board and the adjusted book value of property owned by the board, located within each taxing jurisdiction in which the board operates and within the state. At the same time, the *Department of* Revenue~~[Cabinet]~~ shall certify to the board and to the county clerk the adjustment factor for the tax year. The county clerk shall promptly certify the book value of property, the adjusted book value of property, and the adjustment factor certified by the *Department of* Revenue~~[Cabinet]~~, to the respective taxing jurisdiction in which the board operates.

(3) (a) Each board shall pay for each tax year, beginning with the tax year 1970, to the state and to each taxing jurisdiction in which the board operates, a tax equivalent from the revenues derived from the board's electric operations for that tax year, computed according to this subsection.

(b) The tax equivalent for each tax year payable to the state shall be the total of:

1. The book value of the property owned by the board within the state, multiplied by the adjustment factor, multiplied by the current tax rate of the state, less thirty cents ($0.30), plus

2. The state's portion of the amount payable under paragraph (d) of this subsection.

(c) The tax equivalent for each tax year payable to each taxing jurisdiction in which the board operates shall be the total of:

1. The adjusted book value of property owned by the board within the taxing jurisdiction, multiplied by the adjustment factor, multiplied by the current tax rate of the taxing jurisdiction; provided, however, for the purpose of this calculation the tax rate for school districts shall be increased by thirty cents ($0.30), plus

2. The taxing jurisdiction's portion of the amount payable under paragraph (d) of this subsection.

(d) For purposes of this subsection, "amount payable" shall mean four-tenths of one percent (0.4%) of the book value of property owned by the board located within the state. The state shall be paid the same proportion of the amount payable as the payment to the state under subparagraph 1. of paragraph (b) of this subsection represents of the total payments to the state and all taxing jurisdictions in which the board operates required by subparagraph 1. of paragraph (b) and subparagraph 1. of paragraph (c) of this subsection. Each taxing jurisdiction in which the board operates shall be paid the same proportion of the amount payable as the payment to the taxing jurisdiction under subparagraph 1. of paragraph (c) of this subsection represents of the total payments to the state and all taxing jurisdictions in which the board operates required by subparagraph 1. of paragraph (b) and subparagraph 1. of paragraph (c) of this subsection. Under the regulations the *Department of* Revenue~~[Cabinet]~~ may prescribe, upon the board's receipt from the state and taxing jurisdictions of notice of the amount due under subparagraph 1. of paragraph (b) and subparagraph 1. of paragraph (c) of this subsection, the board shall compute the portion of the amount payable which is due the state and each taxing jurisdiction in which the board operates.

(e) Payment of the tax equivalent under this section for each tax year shall be made by each board to the state within thirty (30) days after receipt by the board of the certification from the *Department of* Revenue~~[Cabinet]~~ required by subsection (2) of this section and shall be made directly to each taxing jurisdiction in which the board operates within thirty (30) days from the date of the certifications by the

county clerk required by subsection (2) of this section. The state and each taxing jurisdiction in which a board operates shall have a superior lien upon the proceeds of the sale of electric energy by that board for the amounts required by this section to be paid to it.

(4) Except as hereinafter provided, the tax equivalents computed under this section shall be in lieu of all state, municipal, county, school district, special taxing district, other taxing district, and other state and local taxes or charges on the tangible and intangible property, the income, franchises, rights, and resources of every kind and description of any municipal electric system operating under KRS 96.550 to 96.900 and on the electric operations of any board established pursuant thereto, and the tax equivalent for any tax year computed and payable under this section to the state or to any taxing jurisdiction in which any board operates shall be reduced by the aggregate amount of any tax or charge within the meaning of this sentence which is imposed by the state, or by any taxing jurisdiction in which a board operates, on the board, the electric system, or the board's electric operations. Provided, however, that if any school district in which property of a board is located has elected, or does hereafter elect, to apply the utility gross receipts license tax for schools to all utility services as provided by KRS 160.613 through KRS 160.617, or as may hereafter be provided by other statutes, the amount of such utility gross receipts license tax shall not reduce, or in any manner affect, the amount payable to any such board or boards under the provisions of this section. It is the intent and purpose of this provision to eliminate all sums received by any such board or boards by reason of the utility gross receipts license tax from any computation of the amount payable under this section to any such board or boards, irrespective of the manner in which that payment is computed, so that, in no event, shall any sum received by any school district by reason of the utility gross receipts license tax reduce, directly or indirectly, the amount payable to such district under this chapter. Provided, further, that if the state shall levy a statewide retail sales or use tax on electric power or energy, collected by retailers of the energy from the vendees or users thereof, and imposed at the same rate or rates as are generally applicable to the sale or use of personal property or services, including natural or artificial gas, fuel oil, and coal as well as electric power or energy, the retail sales or use tax shall not be deemed to be a tax or charge within the meaning of the first sentence of this subsection, and the tax equivalent payable for the tax year to the state under this section shall not be reduced on account of such retail sales or use tax.

(5) (a) Notwithstanding subsection (3) of this section, until the first tax year in which the total of:

1. The tax equivalent payable to the state, or to any taxing jurisdiction in which the board operates, computed under subsection (3) of this section, plus

2. The additional amounts permitted to be paid to the state or taxing jurisdiction without deduction under the second and third sentences of subsection (4) of this section, exceeds the minimum payment to the state or taxing jurisdiction specified in paragraph (b) of this subsection, the tax equivalent for each tax year payable to the state or taxing jurisdiction shall be an amount equal to the minimum payment computed under paragraph (b) of this subsection.

(b) For purposes of this subsection, the minimum payment to the state or to any taxing jurisdiction in which the board operates shall mean an amount equal to the total of:

1. The largest actual payment made by the board pursuant to this section to the state or to the taxing jurisdiction for any of the tax years 1964, 1965, or 1966, plus

2. The state's or taxing jurisdiction's pro rata share of an amount equal to four-tenths of one percent (0.4%) of the increase since July 1, 1964, in the book value of property owned by the board within the state. For the purposes of this paragraph "pro rata share" shall mean the same proportion of the amount computed under this subparagraph as the largest actual payment in lieu of taxes made by the board to the state or taxing jurisdiction for the applicable tax year under subparagraph 1. of this paragraph represents of the total amount of the largest actual payments in lieu of taxes made by the board to the state and to all taxing jurisdictions in which it operated for any of the applicable tax years.

(c) The provisions of paragraph (e) of subsection (3) of this section shall apply to all payments required under this subsection.

(d) This subsection shall not be applicable for the first tax year specified in paragraph (a) of this subsection or for any tax year thereafter, except however, that tax year 1977 shall not be deemed as the "first tax year" as specified in paragraph (a) and this subsection shall continue to apply in such cases.

Section 104. KRS 96.895 is amended to read as follows:

(1) Except for payments made directly by the Tennessee Valley Authority to counties, the total fiscal year payment received by the Commonwealth of Kentucky from the Tennessee Valley Authority, as authorized by section 13 of the Tennessee Valley Authority Act, as amended, shall be prorated thirty percent (30%) to the general fund of the Commonwealth and seventy percent (70%) among counties, cities, and school districts, as provided in subsection (2) of this section.

(2) The payment to each county, city, and school district shall be determined by the proportion that the book value of Tennessee Valley Authority property in such taxing district, multiplied by the current tax rate, bears to the total of the book values of Tennessee Valley Authority property in all such taxing districts in the Commonwealth, multiplied by their respective tax rates, provided, however, each public school district for the purposes of this calculation shall have their tax rate increased by thirty cents ($0.30).

(3) As soon as practicable after the amount of payment to be made to the Commonwealth of Kentucky is finally determined by the Tennessee Valley Authority, the Kentucky *Department of* Revenue~~[Cabinet]~~ shall determine the book value of Tennessee Valley Authority property in each county, city, and school district and shall prorate the total payments received from the Tennessee Valley Authority, except payments received directly from the Tennessee Valley Authority, among the distributees as provided in subsection (2) of this section. The *Department of* Revenue~~[Cabinet]~~ shall certify the payment due each taxing district to the Finance and Administration Cabinet which shall make the payment to such district.

(4) As used in subsections (2) and (3) of this section, "Tennessee Valley Authority Property" means land owned by the United States and in the custody of the Tennessee Valley Authority, together with such improvements (including work in progress but excluding temporary construction facilities) as have a fixed situs thereon if and to the extent that such improvements either:

(a) Were in existence when title to the land on which they are situated was acquired by the United States; or

(b) Are allocated by the Tennessee Valley Authority or determined by it to be allocable to power; provided, however, that manufacturing machinery as interpreted by the *Department of* Revenue~~[Cabinet]~~ for franchise tax determination shall be excluded along with ash disposal systems and, coal handling facilities, including railroads, cranes and hoists, crushing and conveying equipment. As used in said subsections "book value" means original cost unadjusted for depreciation as reflected in Tennessee Valley Authority's books of account. "Book value" shall be determined, for purposes of applying said subsections, as of the June 30 used by the Tennessee Valley Authority in computing the annual payment to the Commonwealth which is subject to redistribution by the Commonwealth.

(5) This section shall be applicable to all payments received after September 30, 1985, from the Tennessee Valley Authority under Section 13 of the Tennessee Valley Authority Act as amended.

Section 105. KRS 96A.320 is amended to read as follows:

(1) As used in KRS 96A.310 to 96A.370, the term "mass transportation program" shall mean the provision of necessary funds by public bodies to transit authorities created pursuant to KRS Chapter 96A with which to acquire, operate, and preserve mass transportation facilities. A "mass transportation program" may also include a method for the public body or public bodies to finance principal and interest payments on any general obligation bonds issued pursuant to KRS 96A.120, or to finance transportation-related facilities to promote the movement of vehicles and people. Urban-county governments which initiate a "mass transportation program" may include in this program the improvement of existing roads and the construction of new roads.

(2) Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either the electorates of such public bodies, or the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one (1) or more proposals for the approval of a mass transportation program to be financed by additional voted levies of ad valorem taxes upon all taxable property in such public body or public bodies. Such additional voted levies of ad valorem taxes upon all taxable property in any such public body shall never exceed in the aggregate the limits prescribed by the Constitution of Kentucky for any such public body.

(3) Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either the electorates of such public bodies, or the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one (1)

or more proposals for the approval of a mass transportation program to be financed by voted levies of occupational license fees. Such voted levies of occupational license fees shall not exceed one percent (1%) of:

(a) Salaries, wages, commissions, and other compensation earned by persons for work done and services performed or rendered; and

(b) The net profits of businesses, trades, professions, or occupations from activities conducted in the public body, or the transit area, except public service companies, banks, trust companies, combined banks and trust companies, combined trust, banking and title companies, any savings and loan association whether state or federally chartered, and in all other cases where a public body is prohibited by law from imposing a license fee.

(4) (a) Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either the electorates of such public bodies, or the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one (1) or more proposals for the approval of a mass transportation program to be financed by the voted levy of a sales tax upon all retailers at a rate not to exceed one-half of one percent (0.5%) of the gross receipts of any retailer derived from "retail sales" or "sales at retail" made within the public body or public bodies, provided, however, that public transit sales tax shall not be levied on those retail sales which are exempted from the state sales tax by KRS Chapter 139 on June 19, 1976, or hereafter exempted.

(b) Any sales tax levied for said purpose shall be in addition to the sales tax authorized by Chapter 139 of the Kentucky Revised Statutes. Said public transportation sales tax shall be collected and administered under the provisions of Chapter 139 of the Kentucky Revised Statutes and the rules and regulations of the Kentucky *Department of* Revenue~~[Cabinet]~~.

(5) The Kentucky *Department of* Revenue~~[Cabinet]~~ shall refund that portion of the sales tax collected as a public transportation tax to the public body or bodies imposing said tax.

(6) Notwithstanding any other provision contrary hereto, a mass transportation program financed by a public body or public bodies from said sales tax shall be restricted by the following order of priorities, to wit:

(a) First, the annual payment of principal, interest, and sinking fund requirements on any general obligation bonds issued pursuant to KRS 96A.120;

(b) Second, appropriations to the transit authority to provide local matching funds for any available federal or state capital, operating, or planning and demonstration grant projects in accordance with the annual approved budget; and

(c) Third, any excess funds in the control of each public body receiving said tax shall be transferred to the general fund of each such public body for public transportation and traffic improvement projects at any location within a city or county, in any manner which said public body or public bodies determine will improve transportation, road or traffic conditions, or in general will promote the movement of people and vehicles.

Section 106. KRS 99.605 is amended to read as follows:

(1) Any owner of an existing residential building, or any owner or lessee of a commercial facility, may make application to the administering agency for a property assessment or reassessment moratorium certificate. The application shall be filed within thirty (30) days before commencing restoration, repair, rehabilitation, or stabilization and shall be filed in a manner prescribed by the administering agency and on a form prescribed by the *Department of* Revenue~~[Cabinet]~~. The application shall contain or be accompanied by a general description of the property and a general description of the proposed use of the property, the general nature and extent of the restoration, repair, rehabilitation, or stabilization to be undertaken and a time schedule for undertaking and completing the project. If the property is a commercial facility, the application shall in addition, be accompanied by a descriptive list of the fixed building equipment which will be a part of the facility and a statement of the economic advantages expected from the moratorium, including expected construction employment.

(2) Except as otherwise provided herein, the property valuation administrator, or other assessing official, and the administering agency shall maintain a record of all applications for a property assessment or reassessment moratorium and shall assess or reassess the property within thirty (30) days of receipt of the application. The administering agency shall issue a moratorium certificate only after completion of the project. The applicant

shall notify the administering agency when the project is complete and the administering agency shall then conduct an on-site inspection of the property for purposes of verifying improvements.

(3) The applicant shall have two (2) years in which to complete the improvement unless granted an extension by the administering agency. In no case shall the application be extended beyond two (2) additional years. This provision shall not preclude normal reassessment of the subject property.

(4) Any application for an assessment or reassessment moratorium not acted upon by the applicant shall become void two (2) years from the date of application and shall be purged from the files of the administering agency.

(5) An assessment or reassessment moratorium certificate may be transferred or assigned by the holder of the certificate to a new owner or lessee of the property.

Section 107. KRS 131.010 is amended to read as follows:

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

(1) "*Commissioner*~~[Secretary]~~" means the *commissioner*~~[secretary]~~ of revenue.

(2) "*Department*~~[Cabinet]~~" means the *Department of* Revenue~~[Cabinet]~~.

(3) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any individual or corporation acting in a fiduciary capacity for any other person.

(4) "Taxpayer" means any person required or permitted by law or administrative regulation to perform any act subject to the administrative jurisdiction of the *department*~~[cabinet]~~ including, but not limited to, the following:

(a) File a report, return, statement, certification, claim, estimate, declaration, form, or other document;

(b) Furnish any information;

(c) Withhold, collect, or pay any tax, installment, estimate, or other funds;

(d) Secure any license, permit, or other authorization to conduct a business or exercise any privilege, right, or responsibility.

(5) "Adjusted prime rate charged by banks" means the average predominant prime rate quoted by commercial banks to large businesses, as determined by the board of governors of the Federal Reserve System.

(6) "Tax interest rate" means the interest rate determined under KRS 131.183.

(7) "Tax" includes any assessment or license fee administered by the *department*~~[cabinet]~~; however, it shall not include moneys withheld or collected by the *department*~~[cabinet]~~ pursuant to KRS 131.560 or 160.627.

(8) "Return" or "report" means any properly completed and, if required, signed form, statement, certification, claim estimate, declaration, or other document permitted or required to be submitted or filed with the *department*~~[cabinet]~~, including returns and reports or composites thereof which are permitted or required to be electronically transmitted.

(9) "Reasonable cause" means an event, happening, or circumstance entirely beyond the knowledge or control of a taxpayer who has exercised due care and prudence in the filing of a return or report or the payment of monies due the *department*~~[cabinet]~~ pursuant to law or administrative regulation.

(10) "Fraud" means intentional or reckless disregard for the law, administrative regulations, or established policies of the *department*~~[cabinet]~~ to evade the filing of any return, report, or the payment of any monies due to the *department*~~[cabinet]~~ pursuant to law or administrative regulation.

Section 108. KRS 131.030 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~ shall exercise all administrative functions of the state in relation to the state revenue and tax laws, the licensing and registering of motor vehicles, the equalization of tax assessments, the assessment of public utilities and public service corporations for taxes, the assessment of franchises, the supervision of tax collections, and the enforcement of revenue and tax laws, either directly or through supervision of tax administration activity in other departments to which the *Department of* Revenue~~[Cabinet]~~ may commit administration of certain taxes.

(2) The *Department of* Revenue~~[Cabinet]~~ shall have all the powers and duties with reference to assessment or equalization of the assessment of property heretofore exercised or performed by any state board or commission.

(3) The *Department of* Revenue~~[Cabinet]~~ shall have all the powers and duties necessary to consider and settle tax cases under KRS 131.110 and refund claims made under KRS 134.580. The *Department of* Revenue~~[Cabinet]~~ is encouraged to settle controversies on a fair and equitable basis and shall be authorized to settle tax controversies based on the hazards of litigation applicable to them.

(4) The *Department of* Revenue~~[Cabinet]~~ shall have all the powers and duties necessary to collect any debts owed to the Commonwealth that are referred to the *department*~~[cabinet]~~ by an organizational unit or administrative body in the executive branch of state government, as defined in KRS 12.010, and by the Court of Justice in the judicial branch of state government under KRS 45.241.

Section 109. KRS 131.051 is amended to read as follows:

As used in KRS 131.041 to 131.081, unless the context requires otherwise:

(1) "Taxpayer ombudsman" means the person appointed by the *commissioner*~~[secretary]~~ of revenue to carry out the administrative functions and responsibilities relating to the Office of Taxpayer Ombudsman created pursuant to KRS 131.071.

(2) "Taxpayer representative" means any attorney, tax practitioner, or other person designated by a taxpayer to represent him before the *department*~~[cabinet]~~ in any matter relating to taxes administered by the *department*~~[cabinet]~~.

Section 110. KRS 131.061 is amended to read as follows:

In addition to all other rights or privileges afforded Kentucky taxpayers, and notwithstanding any provisions of the Kentucky Revised Statutes to the contrary, the provisions of KRS 131.041 to 131.081 shall apply with regard to all taxes administered by the *Department of* Revenue~~[Cabinet]~~.

Section 111. KRS 131.081 is amended to read as follows:

The following rules, principles, or requirements shall apply in the administration of all taxes subject to the jurisdiction of the *Department of* Revenue~~[Cabinet]~~.

(1) The *department*~~[cabinet]~~ shall develop and implement a Kentucky tax education and information program directed at new taxpayers, taxpayer and industry groups, and *department*~~[cabinet]~~ employees to enhance the understanding of and compliance with Kentucky tax laws, including the application of new tax legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.

(2) The *department*~~[cabinet]~~ shall publish brief statements in simple and nontechnical language which explain procedures, remedies, and the rights and obligations of taxpayers and the *department*~~[cabinet]~~. These statements shall be provided to taxpayers with the initial notice of audit; each original notice of tax due; each denial or reduction of a refund or credit claimed by a taxpayer; each denial, cancellation, or revocation of any license, permit, or other required authorization applied for or held by a taxpayer; and, if practical and appropriate, in informational publications by the *department*~~[cabinet]~~ distributed to the public.

(3) Taxpayers shall have the right to be assisted or represented by an attorney, accountant, or other person in any conference, hearing, or other matter before the *department*~~[cabinet]~~. The taxpayer shall be informed of this right prior to conduct of any conference or hearing.

(4) The *department*~~[cabinet]~~ shall perform audits and conduct conferences and hearings only at reasonable times and places.

(5) Taxpayers shall have the right to make audio recordings of any conference with or hearing by the *department*~~[cabinet]~~. The *department*~~[cabinet]~~ may make similar audio recordings only if prior written notice is given to the taxpayer. The taxpayer shall be entitled to a copy of this *department*~~[cabinet]~~ recording or a transcript as provided in KRS 61.874.

(6) If any taxpayer's failure to submit a timely return or payment to the *department*~~[cabinet]~~ is due to the taxpayer's reasonable reliance on written advice from the *department*~~[cabinet]~~, the taxpayer shall be relieved of any penalty or interest with respect thereto, provided the taxpayer requested the advice in writing from the *department*~~[cabinet]~~ and the specific facts and circumstances of the activity or transaction were fully described in the taxpayer's request, the *department*~~[cabinet]~~ did not subsequently rescind or modify the advice in writing, and there were no subsequent changes in applicable laws or regulations or a final decision of a court which rendered the *department's*~~[cabinet's]~~ earlier written advice no longer valid.

(7) Taxpayers shall have the right to receive a copy of any audit of the *department*~~[cabinet]~~ by the Auditor of Public Accounts relating to the *department's*~~[cabinet's]~~ compliance with the provisions of KRS 131.041 to 131.081.

(8) The *department*~~[cabinet]~~ shall include with each notice of tax due a clear and concise description of the basis and amount of any tax, penalty, and interest assessed against the taxpayer, and copies of the agent's audit workpapers and the agent's written narrative setting forth the grounds upon which the assessment is made. Taxpayers shall be similarly notified regarding the denial or reduction of any refund or credit claim filed by a taxpayer.

(9) Taxpayers shall have the right to an installment payment agreement for the payment of delinquent taxes, penalties, and interest owed, provided the taxpayer requests the agreement in writing clearly demonstrating his inability to pay in full and that the agreement will facilitate collection by the *department*~~[cabinet]~~ of the amounts owed. The *department*~~[cabinet]~~ may modify or terminate an installment payment agreement if it determines the taxpayer has not complied with the terms of the agreement; the taxpayers' financial condition has sufficiently changed; the taxpayer fails to provide any requested financial condition update information; the taxpayer gave false or misleading information in securing the agreement; or the taxpayer fails to timely report and pay any other tax due the Commonwealth. The *department*~~[cabinet]~~ shall give written notice to the taxpayer at least thirty (30) days prior to modifying or terminating an installment payment agreement unless the *department*~~[cabinet]~~ has reason to believe that collection of the amounts owed will be jeopardized in whole or in part by delay.

(10) The *department*~~[cabinet]~~ shall not knowingly authorize, require, or conduct any investigation or surveillance of any person for nontax administration related purposes, except internal security related investigations involving *Department of* Revenue~~[Cabinet]~~ personnel.

(11) In addition to the circumstances under which an extension of time for filing reports or returns may be granted pursuant to KRS 131.170, taxpayers shall be entitled to the same extension of the due date of any comparable Kentucky tax report or return for which the taxpayer has secured a written extension from the Internal Revenue Service provided the taxpayer notifies the *department*~~[cabinet]~~ in writing and provides a copy of the extension at the time and in the manner which the *department*~~[cabinet]~~ may require.

(12) The *department*~~[cabinet]~~ shall bear the cost or, if paid by the taxpayer, reimburse the taxpayer for recording or bank charges as the direct result of any erroneous lien or levy by the *department*~~[cabinet]~~, provided the erroneous lien or levy was caused by *department*~~[cabinet]~~ error and, prior to issuance of the erroneous lien or levy, the taxpayer timely responded to all contacts by the *department*~~[cabinet]~~ and provided information or documentation sufficient to establish his or her position. When the *department*~~[cabinet]~~ releases any erroneous lien or levy, notice of the fact shall be mailed to the taxpayer and, if requested by the taxpayer, a copy of the release, together with an explanation, shall be mailed to the major credit reporting companies located in the county where it was filed.

(13) The *department*~~[cabinet]~~ shall not evaluate individual officers or employees on the basis of taxes assessed or collected or impose or suggest tax assessment or collection quotas or goals.

(14) Taxpayers shall have the right to bring an action for damages against the Commonwealth to the Board of Claims for actual and direct monetary damages sustained by the taxpayer as a result of willful, reckless, and intentional disregard by *department*~~[cabinet]~~ employees of the rights of taxpayers as set out in KRS 131.041 to 131.081 or in the tax laws administered by the *department*~~[cabinet]~~. In the awarding of damages pursuant to this subsection, the board shall take into consideration the negligence or omissions, if any, on the part of the taxpayer which contributed to the damages. If any proceeding brought by a taxpayer is ruled frivolous by the board, the *department*~~[cabinet]~~ shall be reimbursed by the taxpayer for its costs in defending the action.

(15) Taxpayers shall have the right to privacy with regard to the information provided on their Kentucky tax returns and reports, including any attached information or documents. Except as provided in KRS 131.190, no information pertaining to the returns, reports, or the affairs of a person's business shall be divulged by the *department*~~[cabinet]~~ to any person or be intentionally and without authorization inspected by any present or former *commissioner*~~[secretary]~~ or employee of the *Department of* Revenue~~[Cabinet]~~, member of a county board of assessment appeals, property valuation administrator or employee, or any other person.

Section 112. KRS 131.110 is amended to read as follows:

(1) The *Department of* Revenue ~~[Cabinet]~~ shall mail to the taxpayer a notice of any tax assessed by it. The assessment shall be due and payable if not protested in writing to the *department*~~[cabinet]~~ within forty-five (45)

days from the date of notice. Claims for refund of paid assessments may be made under KRS 134.580 and denials appealed under KRS 131.340. The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made. Upon written request, the *department*~~[cabinet]~~ may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable. The refusal of the extension may be reviewed in the same manner as a protested assessment.

(2) After a timely protest has been filed, the taxpayer may request a conference with the *department*~~[cabinet]~~. The request shall be granted in writing stating the date and time set for the conference. The taxpayer may appear in person or by representative. Further conferences may be held by mutual agreement.

(3) After considering the taxpayer's protest, including any matters presented at the final conference, the *department*~~[cabinet]~~ shall issue a final ruling on any matter still in controversy, which shall be mailed to the taxpayer. The ruling shall state that it is a final ruling of the *department*~~[cabinet]~~, generally state the issues in controversy, the *department's*~~[cabinet's]~~ position thereon and set forth the procedure for prosecuting an appeal to the Kentucky Board of Tax Appeals.

(4) The taxpayer may request in writing a final ruling at any time after filing a timely protest and supporting statement. When a final ruling is requested, the *department*~~[cabinet]~~ shall issue such ruling within thirty (30) days from the date the request is received by the *department*~~[cabinet]~~.

(5) After a final ruling has been issued, the taxpayer may appeal to the Kentucky Board of Tax Appeals pursuant to the provisions of KRS 131.340.

Section 113. 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 *Department of* Revenue~~[Cabinet]~~:

(1) The *department*~~[cabinet]~~ may make administrative regulations, and direct proceedings and actions, for the administration and enforcement of all tax laws of this state.

(2) The *department*~~[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 *department*~~[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 *department*~~[cabinet]~~.

(3) The *department*~~[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 *department*~~[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 *Finance and Administration* 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 *Finance and Administration*~~[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 *Finance and Administration* Cabinet or at the request of the secretary of the *Finance and Administration*~~[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 *department*~~[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 *department*~~[cabinet]~~ for administration.

(8) The *department*~~[cabinet]~~ may conduct research in the fields of taxation, finance, and local government administration, and publish its findings, as the *commissioner*~~[secretary]~~ may deem wise.

(9) The *department*~~[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 *department*~~[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 *department*~~[cabinet]~~ may enter into annual memoranda of agreement with any state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization to assume the collection duties for any debts due the state entity and may renew that agreement for up to five (5) years. Under such an agreement, the *department*~~[cabinet]~~ shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of those liquidated debts 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 for the collection, refund, and administration of any liquidated debts due the state entity.

Section 114. KRS 131.135 is amended to read as follows:

(1) Each employer subject to KRS Chapter 342 shall file annually with the *Department of* Revenue~~[Cabinet]~~, in accordance with administrative regulations, a report providing the policy number and the name and address of the employer's workers' compensation insurance carrier.

(2) The report may be made available to other state agencies notwithstanding the confidentiality provisions of KRS 131.190.

Section 115. KRS 131.140 is amended to read as follows:

(1) The *department*~~[cabinet]~~ shall requisition the Finance and Administration Cabinet to furnish to local officials an adequate supply of forms for listing property for taxation and other forms and blanks the state is required by law to provide. The books and records prescribed for use by property valuation administrators, county clerks, sheriffs and other county tax collectors shall be designed to promote economical operation, adequate control, availability of useful information, and safekeeping. The forms prescribed for listing intangible property shall be designed to secure a detailed list to provide convenient checking of valuations with available sources of information, and to safeguard the confidential character of the intangible property assessment.

(2) The *department*~~[cabinet]~~ may confer with, advise and direct local officials respecting their duties relating to taxation, and shall supervise the officials in the performance of those duties. The *department*~~[cabinet]~~ shall provide to the property valuation administrators up-to-date appraisal manuals outlining uniform procedures for appraising all types of real and personal property assessed by them. The property valuation administrators shall follow the uniform procedures for appraising property outlined in these manuals. The *department*~~[cabinet]~~ shall maintain and make accessible to all property valuation administrators a statewide commercial real property comparative sales file. The *department*~~[cabinet]~~, by authorized agents, may visit local governmental units and officers for investigational purposes, when necessary.

(3) The *Department of* Revenue~~[Cabinet]~~ shall conduct a biennial performance audit of each property valuation administrator's office. This audit shall include, but shall not be limited to, an inspection of maps and records, an appraisal study of real property, and an evaluation of the overall effectiveness of the office. Each property valuation administrator's office shall provide the *department*~~[cabinet]~~ with access to its files, maps and records during the audit. The *department*~~[cabinet]~~ shall prepare a report on assessment equity and quality for each county based on the performance audit, and shall provide a copy to the Legislative Research Commission.

(4) The *department*~~[cabinet]~~ shall arrange for an annual conference of the property valuation administrators, or the county officers whose duty it is to assess property for taxation, to give them systematic instruction in the fair and just valuation and assessment of property, and their duty in connection therewith. The conference shall continue not more than five (5) days. The officers shall attend and take part in the conference, unless prevented by illness or other reason satisfactory to the *commissioner*~~[secretary]~~. Any officer willfully failing to attend the conference may be removed from office by the Circuit Court of the county where he was elected. If the officer participates in all sessions of the conference, one-half (1/2) of his actual and necessary expenses in attending the conference shall be paid by the state, and the other half shall be paid by the county from which he attends. Each officer shall prepare an itemized statement showing his actual and necessary expenses, and if it is found regular and supported by proper receipts it shall be approved by the *department*~~[cabinet]~~ before payment.

Section 116. KRS 131.150 is amended to read as follows:

(1) When the *Department of* Revenue~~[Cabinet]~~ reasonably believes that any taxpayer has withdrawn from the state or concealed his assets or a material part thereof so as to hinder or evade the assessment or collection of taxes, or has desisted from any taxable activity in the state, or has become domiciled elsewhere, or has departed from this state with fraudulent intent to hinder or evade the assessment or collection of taxes, or has done any other act tending to render partly or wholly ineffective proceedings to assess or collect any such taxes, or contemplates doing any of these acts in the immediate future, or that any tax claim for any other reason is being endangered, such tax liability shall become due and payable immediately upon assessment or determination of the amount of taxes due, as authorized in this section.

(2) Under any of the circumstances set out in subsection (1) of this section, the *department*~~[cabinet]~~ may make a tentative assessment or determination of the taxes due, and may proceed immediately to bring garnishment, attachment or any other legal proceedings to collect the taxes so assessed or determined to be due. Notwithstanding the provisions of KRS 131.180(1), if the tax so assessed is due to the failure of the taxpayer to file a required tax return a minimum penalty of one hundred dollars ($100) shall be assessed unless the taxpayer demonstrates that the failure to file was due to reasonable cause as defined in KRS 131.010(9). This penalty shall be applicable whether or not any tax is determined to be due on a subsequently filed return or if the subsequently filed return results in a refund. No bond shall be required of the *department*~~[cabinet]~~ in such proceedings. The taxpayer may stay legal proceedings by filing a bond in an amount sufficient in the opinion of the *department*~~[cabinet]~~ to cover the taxes, penalties, interest, and costs. If no legal proceedings have been instituted, the *department*~~[cabinet]~~ may require a bond adequate to cover all taxes, penalties, and interest. On making bond, exception to the assessment or determination of tax liability may be filed in the same manner and time as provided in KRS 131.110. If no exceptions are filed to the tentative assessment or determination, it shall become final.

(3) The *department*~~[cabinet]~~ may require any such taxpayer to file with it forthwith the reports required by law or regulation, or any additional reports or other information necessary to assess the property or determine the amount of tax due.

(4) If the *department*~~[cabinet]~~ fails to exercise the authority conferred by this section, such taxpayer shall report and pay all taxes due as otherwise provided by law.

Section 117. KRS 131.155 is amended to read as follows:

(1) As used in this section, the term "electronic fund transfer" means an electronic data processing medium that takes the place of a paper check for debiting or crediting an account and of which a permanent record is made.

(2) Notwithstanding any statutory provisions to the contrary, the *department*~~[cabinet]~~ may require any person who is required to collect or remit taxes and fees administered by the *department*~~[cabinet]~~ or any person who acts on the taxpayer's behalf to remit those taxes and fees to the *department*~~[cabinet]~~ by electronic fund transfer. The transfer shall be made on or before the date the tax is due using the debit method or other means as prescribed by the *department*~~[cabinet]~~ by the promulgation of an administrative regulation. The *department*~~[cabinet]~~ may permit the filing of the tax return following the date of the tax payment. Payment by electronic fund transfer may be required if:

(a) The average payment per reporting period is ten thousand dollars ($10,000) or more for each tax or fee required to be collected or remitted;

(b) The payment for each tax or fee required to be collected or remitted is made on behalf of one hundred (100) or more taxpayers; or

(c) The aggregate of the funds to be remitted on behalf of others is ten thousand dollars ($10,000) or more for each tax or fee required to be collected or remitted.

(3) The *department*~~[cabinet]~~ shall promulgate administrative regulations establishing electronic fund transfer requirements for the payment of taxes and fees administered by the *department*~~[cabinet]~~.

(4) The *department*~~[cabinet]~~ may waive the requirement that a qualifying taxpayer remit the payment by electronic fund transfer if the taxpayer is unable to remit funds electronically.

(5) Taxpayers and any other persons who are required to collect or remit taxes administered by the *department*~~[cabinet]~~ by electronic fund transfer shall be entitled to receive refunds for any overpayment of taxes or fees, on or after July 1, 2001, by electronic fund transfer.

Section 118. KRS 131.160 is amended to read as follows:

If any taxpayer required to make bond for the payment of taxes fails to pay the taxes when due, the *department*~~[cabinet]~~ shall notify him and his surety by mailing notice to their last known addresses. If, after expiration of a reasonable time from the date of the notice, the amount due remains unpaid, the *commissioner*~~[secretary]~~ shall proceed by suit to collect the amount due, including the penalties, interest and costs. The defaulting taxpayer need not be made a party to any suit brought against his surety.

Section 119. KRS 131.170 is amended to read as follows:

The *Department of* Revenue~~[Cabinet]~~ may, when extension is not otherwise provided for, grant a reasonable extension of time for filing reports or returns whenever, in its judgment, good cause therefor exists. The *department*~~[cabinet]~~ shall keep a record of such extensions. Except where a taxpayer is abroad, no extension shall be granted for more than six (6) months, and in no case for more than one (1) year. If any extension operates to postpone a tax payment, interest at the tax interest rate as defined in KRS 131.010(6) shall be collected. The *department*~~[cabinet]~~ may condition the extension upon a bond sufficient to cover any tax and penalty determined to be due. The *department*~~[cabinet]~~ may, on request, permit a person to file a tax return or report or pay tax on a date other than that prescribed by statute, or to change the fiscal period covered by such return or report, if the variation will not ultimately effect a reduction in revenue.

Section 120. KRS 131.175 is amended to read as follows:

Notwithstanding any other provisions of KRS Chapters 131 to 143A, for all taxes payable directly to the *Department of* Revenue~~[Cabinet]~~, the sheriff or the county clerk, the *commissioner*~~[secretary]~~ shall have authority to waive the penalty, but not interest, where it is shown to the satisfaction of the *department*~~[cabinet]~~ that failure to file or pay timely is due to reasonable cause.

Section 121. KRS 131.180 is amended to read as follows:

The provisions of this section shall be known as the "Uniform Civil Penalty Act." Penalties to be assessed in accordance with this section shall apply as follows unless otherwise provided by law:

(1) Any taxpayer who files any return or report after the due date prescribed for filing or the due date as extended by the *department*~~[cabinet]~~ shall, unless it is shown to the satisfaction of the *department*~~[cabinet]~~ that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the total tax due for each thirty (30) days or fraction thereof that the report or return is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the total tax due; however, the penalty shall not be less than ten dollars ($10).

(2) Any taxpayer who fails to withhold or collect any tax as required by law, fails to pay the tax computed due on a return or report on or before the due date prescribed for it or the due date as extended by the *department*~~[cabinet]~~ or, excluding underpayments determined pursuant to subsections (2) and (3) of KRS 141.990, fails to have timely paid at least seventy-five percent (75%) of the tax determined due by the *department*~~[cabinet]~~ shall, unless it is shown to the satisfaction of the *department*~~[cabinet]~~ that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the tax not withheld, collected, or timely paid for each thirty (30) days or fraction thereof that the withholding, collection, or payment is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the tax not timely withheld, collected, or paid; however, the penalty shall not be less than ten dollars ($10).

(3) Any taxpayer who fails to pay any installment of estimated tax by the time prescribed in KRS 141.044 and 141.305 or who, pursuant to subsections (2) or (3) of KRS 141.990, is determined to have a declaration underpayment shall, unless it is shown to the satisfaction of the *department*~~[cabinet]~~ that the failure or

underpayment is due to reasonable cause, pay a penalty equal to ten percent (10%) of the amount of the underpayment or late payment; however, the penalty shall not be less than twenty-five dollars ($25).

(4) If any taxpayer fails or refuses to make and file a report or return or furnish any information requested in writing by the *department*~~[cabinet]~~, the *department*~~[cabinet]~~ may make an estimate of the tax due from any information in its possession, assess the tax at not more than twice the amount estimated to be due, and add a penalty equal to five percent (5%) of the tax assessed for each thirty (30) days or fraction thereof that the return or report is not filed. The total penalty levied pursuant to this subsection shall not exceed fifty percent (50%) of the tax assessed; however, the penalty shall not be less than one hundred dollars ($100) unless the taxpayer demonstrates that the failure to file was due to reasonable cause as defined in KRS 131.010(9). This penalty shall be applicable whether or not any tax is determined to be due on a subsequently filed return or if the subsequently filed return results in a refund.

(5) If any taxpayer fails or refuses to pay within forty-five (45) days of the due date any tax assessed by the *department*~~[cabinet]~~ which is not protested in accordance with KRS 131.110, there shall be added a penalty equal to two percent (2%) of the unpaid tax for each thirty (30) days or fraction thereof that the tax is final, due, and owing, but not paid.

(6) Any taxpayer who fails to obtain any identification number, permit, license, or other document of authority from the *department*~~[cabinet]~~ within the time required by law shall, unless it is shown to the satisfaction of the *department*~~[cabinet]~~ that the failure is due to reasonable cause, pay a penalty equal to ten percent (10%) of any cost or fee required to be paid for the identification number, permit, license, or other document of authority; however, the penalty shall not be less than fifty dollars ($50).

(7) If any tax assessed by the *department*~~[cabinet]~~ is the result of negligence by a taxpayer or other person, a penalty equal to ten percent (10%) of the tax so assessed shall be paid by the taxpayer or other person who was negligent.

(8) If any tax assessed by the *department*~~[cabinet]~~ is the result of fraud committed by the taxpayer or other person, a penalty equal to fifty percent (50%) of the tax so assessed shall be paid by the taxpayer or other person who committed fraud.

(9) If any check tendered to the *department*~~[cabinet]~~ is not paid when presented to the drawee bank for payment, there shall be paid as a penalty by the taxpayer who tendered the check, upon notice and demand of the *department*~~[cabinet]~~, an amount equal to ten percent (10%) of the check. The penalty under this section shall not be less than ten dollars ($10) nor more than one hundred dollars ($100). If the taxpayer who tendered the check shows to the *department's*~~[cabinet's]~~ satisfaction that the failure to honor payment of the check resulted from error by parties other than the taxpayer, the *department*~~[cabinet]~~ shall waive the penalty.

(10) Any person who fails to make any tax report or return or pay any tax within the time, or in the manner required by law, for which a specific civil penalty is not provided by law, shall pay a penalty as provided in this section, with interest from the date due at the tax interest rate as defined in KRS 131.010(6).

(11) The penalties levied pursuant to subsection (5) of this section shall apply to any tax assessment protested pursuant to KRS 131.110 to the extent that any appeal of the assessment or portion of it is ruled by the Kentucky Board of Tax Appeals or, if appealed from, the court of last resort, as not protested, appealed, or pursued in good faith by the taxpayer.

(12) Nothing in this section shall be construed to prevent the assessment or collection of more than one (1) of the penalties levied under this section or any other civil or criminal penalty provided for violation of the law for which penalties are imposed.

(13) All penalties levied pursuant to this section shall be assessed, collected, and paid in the same manner as taxes. Any corporate officer or other person who becomes liable for payment of any tax assessed by the *department*~~[cabinet]~~ shall likewise be liable for all penalties and interest applicable thereto.

Section 122. KRS 131.181 is amended to read as follows:

(1) Whenever it is determined that a taxpayer, who holds a license to mine coal in Kentucky under KRS 351.175, is a "delinquent taxpayer" as defined in subsection (3) of this section, the *Department of* Revenue~~[Cabinet]~~ shall, after giving notice as provided in subsection (4) of this section, submit the name of the taxpayer to the Department of Mines and Minerals for revocation of the license issued under KRS 351.175.

(2) If it is determined that a person who is an agent, contract miner, or delegate of a delinquent taxpayer as defined in subsection (3) holds a license to mine coal for the delinquent taxpayer in Kentucky under KRS 351.175, the *Department of* Revenue~~[Cabinet]~~ shall, after giving notice as provided in subsection (4) of this section, submit the name of the agent, contract miner, or delegate to the Department of Mines and Minerals for revocation of the license issued under KRS 351.175 to mine coal for the delinquent taxpayer.

(3) Any of the following situations is sufficient to cause a taxpayer to be classified as a "delinquent taxpayer" for purposes of this section:

(a) When a taxpayer has an overdue state tax liability arising directly or indirectly from the mining, transportation, or processing of coal, for which all protest and appeal rights granted by law have expired and has been contacted by the *department*~~[cabinet]~~ concerning the overdue tax liability. This does not include a taxpayer who is making current timely installment payments on the overdue tax liability under agreement with the *department*~~[cabinet]~~.

(b) When a taxpayer has not filed a required tax return as of thirty (30) days after the due date or after the extended due date, and has been contacted by the *department*~~[cabinet]~~ concerning the delinquent return. This applies only to tax returns required as the result of the taxpayer's involvement in the mining, transportation, or processing of coal.

(c) When an owner, partner, or corporate officer of a proprietorship, partnership, or corporation holding a license under KRS 351.175, held a similar position in a business whose license was revoked as a "delinquent taxpayer", and the tax liability remains unpaid.

(4) At least twenty (20) days in advance of submitting a taxpayer's name to the Department of Mines and Minerals as provided in subsection (1) or (2) of this section, the *department*~~[cabinet]~~ shall notify the taxpayer by certified mail that the action is to be taken. The notice shall state the reason for the action and shall set out the amount of any tax liability including any applicable penalties and interest and any other area of noncompliance which must be satisfied in order to prevent the submission of his name to the Department of Mines and Minerals as a "delinquent taxpayer."

(5) If it is determined that an applicant for a license to mine coal under the provisions of KRS 351.175 is a delinquent taxpayer as defined in subsection (3) of this section, or is an agent, contract miner, or delegate of a delinquent taxpayer, the Department of Mines and Minerals shall refuse a mine license to the applicant.

Section 123. KRS 131.1815 is amended to read as follows:

(1) Whenever it is determined that a taxpayer, who holds a license under KRS Chapter 243, is a delinquent taxpayer as defined in subsection (2) of this section, the *department*~~[cabinet]~~ may, after giving notice as provided in subsection (3) of this section, submit the name of the taxpayer to the Department of Alcoholic Beverage Control for revocation of any license issued under KRS Chapter 243.

(2) Any of the following situations shall be sufficient to cause a taxpayer to be classified as a "delinquent taxpayer" for purposes of this section:

(a) When a taxpayer has an overdue state tax liability arising directly or indirectly from the manufacture, sale, transportation, or distribution of alcoholic beverages, for which all protest and appeal rights granted by law have expired, and the taxpayer has been contacted by the *department*~~[cabinet]~~ concerning the overdue tax liability. This does not include a taxpayer who is making current timely installment payments on the overdue tax liability under agreement with the *department*~~[cabinet]~~.

(b) When a taxpayer has not filed a required tax return as of ninety (90) days after the due date or after the extended due date, and the taxpayer has been contacted by the *department*~~[cabinet]~~ concerning the delinquent return.

(c) When an owner, partner, or corporate officer of a proprietorship, partnership, or corporation holding a license under KRS Chapter 243 held a similar position in a business whose license was revoked as a "delinquent taxpayer," and the tax liability remains unpaid as of ninety (90) days after the due date.

(3) At least twenty (20) days before submitting a taxpayer's name to the Department of Alcoholic Beverage Control as provided in subsection (1) of this section, the *department*~~[cabinet]~~ shall notify the taxpayer by certified mail that the action is to be taken. The notice shall state the reason for the action and shall set out the amount of any tax liability including any applicable penalties and interest and any other area of noncompliance

that must be satisfied in order to prevent the submission of his name to the Department of Alcoholic Beverage Control as a delinquent taxpayer.

Section 124. KRS 131.183 is amended to read as follows:

(1) All taxes payable to the Commonwealth not paid at the time prescribed by statute shall accrue interest at the tax interest rate. The tax interest rate for tax liabilities that are assessed on or after July 1, 1982, shall be sixteen percent (16%). This tax interest rate shall apply until January 1, 1983, when the tax interest rate shall be adjusted as provided in this section. The *commissioner*~~[secretary]~~ of revenue shall adjust the tax interest rate not later than November 15 of any year, beginning in 1982, if the adjusted prime rate charged by banks during October of that year, rounded to the nearest full percent, is at least one (1) percentage point more or less than the tax interest rate which is then in effect. The tax interest rate shall be equal to the adjusted prime rate charged by banks rounded to the nearest full percent, and shall become effective on January 1 of the immediately succeeding year.

(2) Interest shall be allowed and paid upon any overpayment in respect of any of the taxes provided for in Chapters 131, 132, 134, 136, 137, 138, 139, 140, 141, 142, 143, 143A, and 243 of the Kentucky Revised Statutes at the rate provided in subsection (1) above. Except for the provisions of KRS 138.351, 141.044(2), 141.235(3), and subsection (3) of this section, interest authorized under this subsection shall begin to accrue sixty (60) days after the due date of the return or the date the tax was paid, whichever is later, and in no case shall interest be paid in an amount less than five dollars ($5).

(3) Effective for refund claims filed on or after July 15, 1992, if any overpayment of the tax imposed under KRS Chapter 141 results from a carryback of a net operating loss or a net capital loss, the overpayment shall be deemed to have been made on the date the claim for refund was filed. Interest authorized under subsection (2) of this section shall begin to accrue ninety (90) days from the date the claim for refund was filed.

(4) No interest shall be allowed or paid on any sales tax refund as provided by KRS 139.536.

Section 125. KRS 131.185 is amended to read as follows:

Income tax returns shall be kept for five (5) years; primary accounting records of tax payments, seven (7) years; and records containing all data of motor vehicle registration, three (3) years. Records of the *department*~~[cabinet]~~ which are not required by this section or other statutory provisions to be preserved for a fixed period may be kept or disposed of according to the discretion of the *department*~~[cabinet]~~.

Section 126. KRS 131.190 is amended to read as follows:

(1) No present or former *commissioner*~~[secretary]~~ or employee of the *Department of* Revenue~~[Cabinet]~~, *present or former* member of a county board of assessment appeals, *present or former* property valuation administrator or employee, *present or former secretary or employee of the Finance and Administration Cabinet, former secretary or employee of the Revenue Cabinet*, 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 *department*~~[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 *commissioner*~~[secretary]~~ or any employee of the *Department of* Revenue~~[Cabinet]~~ from testifying in any court, or from introducing as evidence returns or reports filed with the *department*~~[cabinet]~~, in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws. The *commissioner*~~[secretary]~~ or the *commissioner's*~~[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 *commissioner*~~[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 *department*~~[cabinet]~~ shall receive similar or useful information in return.

(3) Statistics of tax-paid gasoline gallonage reported monthly to the *Department of* Revenue~~[Cabinet]~~ under the gasoline excise tax law may be made public by the *department*~~[cabinet]~~.

(4) *Access to and inspection of information received from the Internal Revenue Service is for Department of Revenue use only, and is restricted to tax administration purposes.* 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 Finance and Administration Cabinet, commissioner*~~[secretary]~~ or employee of the *Department of* Revenue~~[Cabinet]~~, or any other person.

(5) Statistics of crude oil as reported to the *Department of* Revenue~~[Cabinet]~~ under the crude oil excise tax requirements of KRS Chapter 137 and statistics of natural gas production as reported to the *Department of* Revenue~~[Cabinet]~~ under the natural resources severance tax requirements of KRS Chapter 143A may be made public by the *department*~~[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 *department*~~[cabinet]~~ may make public or divulge only those portions of mine maps submitted by taxpayers to the *department*~~[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 127. KRS 131.191 is amended to read as follows:

The *Department of* Revenue~~[Cabinet]~~ shall not enter into any contract with the Department of Corrections, the United States Government, any local government, or any private contractor operating a correctional institution on behalf of the Department of Corrections, the United States Government, or any local government for the use or employment of prisoners in any capacity that allows prisoners access to taxpayer information, including, but not limited to, tax returns, informational reporting returns, social security numbers, telephone numbers, or addresses.

Section 128. KRS 131.192 is amended to read as follows:

Whenever it becomes necessary within the discretion of the *commissioner*~~[secretary]~~ of revenue to photostat, duplicate, publish or supply for the use and benefit of persons or agencies, other than agencies of state government, information contained in official records of the *Department of* Revenue~~[Cabinet]~~, whose contents are not confidential according to law, the *Department of* Revenue~~[Cabinet]~~ is hereby authorized to photostat, duplicate or publish the said information and supply the same to the requesting person or agency. For such services the *department*~~[cabinet]~~ may charge a fee which will be adequate to cover the expenses of photostating, duplicating or publishing such information and any expense incidental to supplying the same.

Section 129. KRS 131.194 is amended to read as follows:

All money received by the *Department of* Revenue~~[Cabinet]~~, for supplying to persons or agencies other than state agencies information which is contained in the official files of the *department*~~[cabinet]~~, shall be promptly deposited with the State Treasurer in the same manner as provided by law for other deposits. The amount of money so deposited shall be treated as a reimbursement to the appropriation of the *Department of* Revenue~~[Cabinet]~~ from which the disbursements were made for expenses incurred in performing the services authorized by KRS 131.192.

Section 130. KRS 131.205 is amended to read as follows:

(1) Any field representative of the *Department of* Revenue~~[Cabinet]~~ who is authorized to collect taxes or money due the Commonwealth may deposit to his special account as field representative of the *department*~~[cabinet]~~ any money so collected in a state or national bank in this Commonwealth.

(2) He shall within forty-eight (48) hours after making such deposits draw a check or checks payable to the State Treasurer for the full amount of the deposit and mail same to the *department*~~[cabinet]~~ or transmit same in a manner approved by the *department*~~[cabinet]~~. Nothing in this section shall be construed as authorizing any field representative of the *department*~~[cabinet]~~ to enforce or cash, even for the purpose of a deposit, any check or other instrument of value payable to the Commonwealth or any agency thereof.

(3) Deposits shall be made in such banks as the *department*~~[cabinet]~~ may by regulation designate, and subject to such further conditions as the *department*~~[cabinet]~~ may prescribe. Any reasonable service charges made by the bank may be paid by the *department*~~[cabinet]~~ from its appropriation as other claims against it are paid.

Section 131. KRS 131.210 is amended to read as follows:

Any field agent, accountant or attorney, when authorized in writing by the *commissioner*~~[secretary]~~ of revenue, may investigate the accounts, books and records of all officers whose duty it is to receive or collect money due the state, county, school district or other taxing district, and report to the *commissioner*~~[secretary]~~ all delinquent officers and the amounts collected by them which they have failed to pay into the State Treasury, or into the treasury of the county, school district or other taxing district. Every such field agent, accountant or attorney shall report to the fiscal court of the county all delinquent officers and the amounts owing by them to the county and all amounts which such officers should have collected and which they failed to collect, and the person owing same. Every field agent, accountant or attorney shall report all excessive charges made by such officers, and shall report all officers who have received or retained a greater sum for their services or the services of their deputies than is allowed by law. Every field agent, accountant or attorney shall report all other facts by which any taxing authority is being unlawfully deprived of any money, and any other facts that he deems important touching the interest of any taxing authority, or of which the *commissioner*~~[secretary]~~ of revenue, county attorney, county judge/executive or fiscal court may require information.

Section 132. KRS 131.320 is amended to read as follows:

(1) Each member of the Kentucky Board of Tax Appeals shall be a person at least thirty-five (35) years of age. One (1) member shall be an attorney with the qualifications required of candidates for Circuit Judge. The other two (2) members shall be persons with a general business background except that not all of the members shall be of the same occupation or profession.

(2) The Governor may remove any member of the board for cause after giving him an opportunity for a hearing conducted in accordance with KRS Chapter 13B. If a member of the board is removed, the Governor shall file in the office of the Secretary of State a copy of the final order in the proceeding.

(3) The members of the board shall receive an annual salary to be fixed by the Governor.

(4) The principal office of the board shall be at Frankfort, Kentucky. A majority of the board may hold hearings outside of Frankfort or as provided in KRS 131.355(2), with a view to securing opportunity to taxpayers to appear before it with as little inconvenience and expense as practicable. The office of the board shall be open during regular working hours for the conduct of its business.

(5) The chairman of the Board of Tax Appeals shall conduct an orientation and training session for each new member of the board. The chairman of the Board of Tax Appeals shall conduct an annual seminar for all three (3) members of the board to discuss new legislation, pertinent court decisions, and *department*~~[cabinet]~~ policies and procedures.

Section 133. KRS 131.340 is amended to read as follows:

(1) The Kentucky Board of Tax Appeals is hereby vested with exclusive jurisdiction to hear and determine appeals from final rulings, orders, and determinations of any agency of state or county government affecting revenue and taxation. Administrative hearings before the Kentucky Board of Tax Appeals shall be de novo and conducted in accordance with KRS Chapter 13B.

(2) Any state or county agency charged with the administration of any taxing or licensing measure which is under the jurisdiction of the board shall mail by certified mail notice of its ruling, order, or determination within three (3) working days from the date of the decision.

(3) Any party, including the Attorney General, on behalf of the Commonwealth, aggrieved by any ruling, order, or determination of any state or county agency charged with the administration of any taxing or licensing measure, may prosecute an appeal to the board by filing a complaint or petition of appeal before the board within thirty (30) days from the date of the mailing of the agency's ruling, order, or determination.

(4) If the *Department of* Revenue~~[Cabinet]~~ is aggrieved by the decision of any county board of assessment appeals on an assessment recommended by the *department*~~[cabinet]~~ and prosecutes an appeal to the Kentucky Board of Tax Appeals as authorized in subsection (3) of this section, the *commissioner*~~[secretary]~~ of revenue shall, within twenty (20) days, certify in writing to the Kentucky Board of Tax Appeals the assessment recommended.

(5) The Kentucky Board of Tax Appeals shall immediately forward copies of the certification to the parties to the appeal. The assessed value shall be prima facie evidence of the value at which the property should be assessed.

Section 134. KRS 131.355 is amended to read as follows:

(1) All proceedings before the board shall be officially reported and all records of proceedings shall be public records, except in cases of appeals of unmined mineral assessments where the records before the board include information provided to the *Department of* Revenue~~[Cabinet]~~ by the taxpayer or its lessees, and were generated at the taxpayer's expense. Furthermore, no recorded or transcribed testimony concerning these records shall be considered a public record. Examples of these records would include, but are not limited to, mineral exploration records; photographs; core data information; maps whether acquired for ownership information, for coal seam thickness, for depletion by mining or otherwise; and/or records calculating production or reserves, leased and/or unleased. Neither records containing confidential information nor testimony concerning same shall be disclosed to parties outside the appeals proceedings. A protective order shall be entered and shall remain in effect during the entire appeals process, including appeals to the courts, and thereafter, preventing the parties, their agents and representatives, except the taxpayer, from disclosing the information.

(2) All appeals to the Kentucky Board of Tax Appeals shall be heard by the full board, but one (1) member or a hearing officer may be authorized to hear an individual appeal. The final order in any appeal heard by a single member or a hearing officer shall be made and entered by a majority of the board.

Section 135. KRS 131.400 is amended to read as follows:

(1) KRS 131.410 to 131.445 shall be known as and may be cited as the "Kentucky Tax Amnesty Act."

(2) The *Department of* Revenue~~[Cabinet]~~ shall develop and administer a tax amnesty program as provided in KRS 131.410 to 131.445.

(3) As used in KRS 131.410 to 131.445, unless the context requires otherwise:

(a) "*Department*~~[Cabinet]~~" means the *Department of* Revenue~~[Cabinet]~~.

(b) "Taxpayer" means any individual, partnership, joint venture, association, corporation, receiver, trustee, guardian, executor, administrator, fiduciary, limited liability company, limited liability partnership, or any other entity of any kind subject to any tax set forth in subsection (4) of this section or any person required to collect any such tax under subsection (4) of this section.

(c) "Account receivable" means an amount of state tax, penalty, fee, or interest which has been recorded as due and entered in the account records of the *department*~~[cabinet]~~, or which the taxpayer should reasonably expect to become due as a direct or indirect result of any pending or completed audit or investigation which the taxpayer knows is being conducted by any governmental taxing authority, federal, state, or local.

(d) "Due and owing" means an assessment which has become final and is owed to the Commonwealth due to either the expiration of the taxpayer's appeal rights pursuant to KRS 131.110 or, if an assessment has been appealed to the board of tax appeals, the rendition of a final order by the board or by any court of this Commonwealth. For the purposes of KRS 131.410 to 131.445, assessments that have been appealed to the board of tax appeals shall be final, due and owing fifteen (15) days after the last unappealed or unappealable order sustaining the assessment or any part thereof has become final.

(4) Notwithstanding the provisions of any other law to the contrary, the tax amnesty program shall be conducted by the *department*~~[cabinet]~~ during the fiscal year ending June 30, 2003, for a period of not less than sixty (60) days nor more than one hundred and twenty (120) days and shall apply to all taxpayers owing taxes, penalties, fees, or interest subject to the administrative jurisdiction of the *department*~~[cabinet]~~, with the exceptions of ad valorem taxes levied on real property pursuant to KRS Chapter 132, ad valorem taxes on motor vehicles and motorboats collected by the county clerks, and ad valorem taxes on personal property levied pursuant to KRS Chapter 132 that are payable to local officials. The program shall apply to tax liabilities for taxable periods ending or transactions occurring after December 1, 1987, but prior to December 1, 2001. Amnesty tax return forms shall be in a form prescribed by the *department*~~[cabinet]~~.

Section 136. KRS 131.410 is amended to read as follows:

(1) For any taxpayer who meets the requirements of KRS 131.420:

(a) For taxes which are owed as a result of the nonreporting or underreporting of tax liabilities or the nonpayment of any account receivable owed by an eligible taxpayer, the Commonwealth shall waive criminal prosecution and all civil penalties and fees which may be assessed under any KRS chapter subject to the administrative jurisdiction of the *department*~~[cabinet]~~ for the taxable years or periods for which tax amnesty is requested, plus all of the interest as provided in subsection (1) of KRS 131.425.

(b) With the exception of instances in which the taxpayer and *department*~~[cabinet]~~ enter into an installment payment agreement authorized under subsection (3) of KRS 131.420, The failure to pay all taxes as shown on the taxpayer's amnesty tax return shall invalidate any amnesty granted pursuant to KRS 131.410 to 131.445.

(2) This section shall not apply to any taxpayer who is on notice, written or otherwise, of a criminal investigation being conducted by an agency of the state or any political subdivision thereof or the United States, nor shall this section apply to any taxpayer who is the subject of any criminal litigation which is pending on the date of the taxpayer's application in any court of this state or the United States for nonpayment, delinquency, evasion or fraud in relation to any federal taxes or to any of the taxes to which this amnesty program is applicable.

(3) No refund or credit shall be granted for any interest, fee, or penalty paid prior to the time the taxpayer requests amnesty pursuant to KRS 131.420.

(4) Unless the *department*~~[cabinet]~~ in its own discretion redetermines the amount of taxes due, no refund or credit shall be granted for any taxes paid under the amnesty program.

Section 137. KRS 131.420 is amended to read as follows:

(1) The provisions of KRS 131.400 to 131.445 shall apply to any eligible taxpayer who files an application for amnesty within the time prescribed by the *department*~~[cabinet]~~ and does the following:

(a) Files completed tax returns for all years or tax reporting periods as stated on the application for which returns have not previously been filed and files completed amended tax returns for all years or tax reporting periods as stated on the application for which the tax liability was underreported, except in cases in which the tax liability has been established through audit.

(b) Pays in full the taxes due for the periods and taxes applied for at the time the application or amnesty tax returns are filed within the amnesty period and pays the amount of any additional tax owed within thirty (30) days of notification by the *department*~~[cabinet]~~.

(c) Pays in full within the amnesty period all taxes previously assessed by the *department*~~[cabinet]~~ that are due and owing at the time the application or amnesty tax returns are filed.

(2) An eligible taxpayer may participate in the amnesty program whether or not the taxpayer is under audit, notwithstanding the fact that the amount due is included in a proposed assessment or an assessment, bill, notice, or demand for payment issued by the *department*~~[cabinet]~~, and without regard to whether the amount due is subject to a pending administrative or judicial proceeding. An eligible taxpayer may participate in the amnesty program to the extent of the uncontested portion of any assessed liability. However, participation in the program shall be conditioned upon the taxpayer's agreement that the right to protest or initiate an administrative or judicial proceeding or to claim any refund of moneys paid under the program is barred with respect to the amounts paid with the application or amnesty returns.

(3) The *department*~~[cabinet]~~ may enter into an installment payment agreement as provided in KRS 131.081(9) in cases of severe hardship in lieu of the complete payment required under subsection (1) of this section. Failure of the taxpayer to make timely payments shall void the terms of the amnesty program. All such agreements and payments shall include interest as provided under subsection (2) of KRS 131.425.

(4) If, following the termination of the tax amnesty period, the *department*~~[cabinet]~~ issues a deficiency assessment based upon information independent of that shown on a return filed pursuant to subsection (1) of this section, the *department*~~[cabinet]~~ shall have the authority to impose penalties and criminal action may be brought where authorized by law only with respect to the difference between the amount shown on the amnesty tax return and the correct amount of tax due. The imposition of penalties or criminal action shall not invalidate any waiver granted under KRS 131.410. With the exception of the cost of collection fee imposed under subsection (1) of KRS 131.440, all assessments issued by the *department*~~[cabinet]~~ under KRS 131.410 to 131.445 may be protested by the taxpayer in the same manner as other assessments pursuant to the terms of this chapter.

Section 138. KRS 131.430 is amended to read as follows:

The *department*~~[cabinet]~~ shall promulgate administrative regulations as necessary, issue forms and instructions, and take all actions necessary to implement the provisions of KRS 131.410 to 131.445. The *department*~~[cabinet]~~ shall extensively publicize the tax amnesty program in order to maximize the public awareness of and participation in the program.

Section 139. KRS 131.440 is amended to read as follows:

(1) In addition to all other penalties provided under KRS 131.180, 131.410 to 131.445, and 131.990 and any other law, there is hereby imposed after the expiration of the tax amnesty period the following cost of collection fees:

(a) A cost of collection fee of twenty-five percent (25%) on all taxes which are or become due and owing to the *department*~~[cabinet]~~ for any reporting period, regardless of when due. This fee shall be in addition to any other applicable fee provided in this subsection;

(b) Taxes which are assessed and collected after the amnesty period for taxable periods ending or transactions occurring prior to December 1, 2001, shall be charged a cost of collection fee of twenty-five percent (25%) at the time of assessment; and

(c) For any taxpayer who failed to file a return for any previous tax period for which amnesty is available and fails to file the return during the amnesty period, the cost of collection fee shall be fifty percent (50%) of any tax deficiency assessed after the amnesty period.

(2) The *commissioner*~~[secretary]~~ of revenue shall have the right to waive any penalties or collection fees when it is demonstrated that any deficiency of the taxpayer was due to reasonable cause as defined in KRS 131.010(9). However, any taxes that cannot be paid under the amnesty program because of the exclusions in subsection (2) of KRS 131.410 shall not be subject to these fees.

(3) The provisions of subsection (1) of this section shall not relate to any account which has been protested pursuant to KRS 131.110 as of the expiration of the amnesty period and which does not become due and owing, or to any account on which the taxpayer is remitting timely payments under a payment agreement negotiated with the *department*~~[cabinet]~~ prior to or during the amnesty period.

(4) The fee levied under subsection (1) of this section shall not apply to taxes paid pursuant to the terms of the amnesty program nor shall the judgment penalty of twenty percent (20%) levied under KRS 135.060(3) apply in any case in which the fee levied under this section is applicable.

Section 140. KRS 131.445 is amended to read as follows:

(1) After the expiration of the tax amnesty period, the *department*~~[cabinet]~~ shall vigorously pursue all civil, administrative, and criminal penalties authorized by state and federal law for all taxes found to be due the Commonwealth.

(2) In addition to all other penalties provided under KRS 131.180, 131.410 to 131.445, and 131.990 and any other law, any taxpayer 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 D felony.

Section 141. KRS 131.500 is amended to read as follows:

(1) In addition to any other remedy provided by the laws of the Commonwealth, if any person has been assessed for a tax the collection of which is administered by the *Department of* Revenue~~[Cabinet]~~ as provided by the laws of the Commonwealth and if the person has not sought administrative or judicial review of the assessment as provided for in KRS 131.110, or if the person has sought but exhausted all administrative and judicial review so that the assessment is final, due, and owing, the *commissioner*~~[secretary]~~ of revenue or his delegate may cause a demand to be made on the person for the payment thereof. If the tax remains unpaid for thirty (30) days after the demand, the *commissioner*~~[secretary]~~ or his delegate may levy upon and sell all property and rights to property found within the Commonwealth belonging to the person or on which there is a lien provided by KRS 134.420, except the property that is exempt from an execution on a judgment in favor of the Commonwealth as provided in KRS Chapter 427, for the payment of the amount of the tax, penalty, interest, and cost of the levy.

(2) As soon as practicable after seizure of property, notice in writing shall be given by the *commissioner*~~[secretary]~~ or his delegate to the owner of the property. The notice shall be given to the owner either in person or by certified mail to his last known address. The notice shall specify the sum demanded and shall contain, in the

case of personal property, an account of the property seized and, in the case of real property, a description with reasonable certainty of the property seized.

(3) The *commissioner*~~[secretary]~~ or his delegate shall as soon as practicable after the seizure of the property cause a notification of the sale of the seized property to be published in the newspaper with the largest circulation within the county wherein such seizure is made. The notice shall be published once each week for three (3) successive weeks. In addition, the notice shall be posted at the courthouse and three (3) other public places in the county where the seizure is made for fifteen (15) days next preceding sale. The notice shall specify the property to be sold, and the time, place, manner, and condition of the sale thereof.

(4) If any property liable to levy is not divisible, so as to enable the *commissioner*~~[secretary]~~ or his delegate by sale of a part thereof to raise the whole amount of the tax, penalty, interest, and cost of the levy, the whole of the property shall be sold.

(5) The time of sale shall not be less than thirty (30) nor more than ninety (90) days from the time the seizure is made. The place of sale shall be within the county in which the property is seized, except by special order of the *commissioner*~~[secretary]~~.

(6) The sale shall not be conducted in any manner other than by public auction, or by public sale under sealed bids. In the case of the seizure of several items of property, the *commissioner*~~[secretary]~~ or his delegate may offer the items for sale separately, in groups, or in the aggregate and accept whichever method produces the highest aggregate amount.

(7) The *commissioner*~~[secretary]~~ or his delegate shall determine whether payment in full shall be required at the time of acceptance of a bid, or whether a part of the payment may be deferred for such period, not to exceed one (1) month, as he may determine to be appropriate. If payment in full is required at the time of acceptance of a bid and is not then and there paid, the *commissioner*~~[secretary]~~ or his delegate shall forthwith proceed to again sell the property as provided in subsection (6) of this section. If the conditions of the sale permit part of the payment to be deferred, and if such part is not paid, within the prescribed period, suit may be instituted in the Franklin Circuit Court or the Circuit Court of the county where the sale was conducted against the purchaser for the purchase price or such part thereof as has not been paid, together with interest at the rate of twelve percent (12%) per annum from the date of the sale; or, in the discretion of the *commissioner*~~[secretary]~~, the sale may be declared to be null and void for failure to make full payment of the purchase price and the property may again be advertised and sold as provided in this section. If readvertisement and sale occur, any new purchaser shall receive the property or rights to property, free and clear of any claim or right of the former defaulting purchaser, of any nature whatsoever, and the amount paid upon the bid price by the defaulting purchaser shall be forfeited.

(8) If the *commissioner*~~[secretary]~~ or his delegate determines that any property seized is liable to perish or become greatly reduced in price or value by keeping, or that the property cannot be kept without great expense, he shall appraise the value of the property and, if the owner of the property can be readily found, the *commissioner*~~[secretary]~~ or his delegate shall give him notice of the determination of the appraised value of the property. The property shall be returned to the owner if, within the time specified in the notice, the owner pays to the *commissioner*~~[secretary]~~ or his delegate an amount equal to the appraised value, or gives bond in the form, with the sureties, and in the amount as the *commissioner*~~[secretary]~~ or his delegate determines to be appropriate in the circumstances. If the owner does not pay the amount or furnish the bond in accordance with this subsection, the *commissioner*~~[secretary]~~ or his delegate shall as soon as practicable make public sale of the property without regard to the advertisement requirements or the time limitations contained in subsections (3) and (5) of this section.

(9) No proceedings under this section shall be commenced more than ten (10) years after the assessment becomes final.

(10) The term "levy" as used in this section shall include the power of distraint and seizure by any means. Except as otherwise provided in KRS 131.510(2)(a), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the *commissioner*~~[secretary]~~ or his delegate may levy upon property or rights to property, he may seize and sell the property or rights whether real, personal, tangible or intangible.

(11) Notwithstanding the provisions of KRS Chapters 45, 45A, and 56, the *department*~~[cabinet]~~ may take all necessary steps to provide for the protection, maintenance, or transportation of all property seized by the *department*~~[cabinet]~~ pursuant to the provisions of this section, including, but not limited to, negotiating directly

for the procurement of contractual services, including professionals, supplies, materials, equipment, or the leasing of real and personal property. Every effort shall be made to effect a competitively established price for purchases made pursuant to this section. The *department*~~[cabinet]~~ shall report any procurements of contractual services, supplies, materials, equipment, or the leasing of real and personal property, to the secretary of the Finance and Administration Cabinet within sixty (60) days of the transaction. Nothing in this section shall preclude the *department*~~[cabinet]~~ from complying with the provisions of KRS Chapters 45 and 56 relating to the requirements to report the purchase or lease of real property or equipment to the Capital Projects and Bond Oversight Committee.

Section 142. KRS 131.510 is amended to read as follows:

(1) Levy may be made with respect to any unpaid tax only after the *department*~~[cabinet]~~ has given notice and demand to such person in writing of the intention to make such levy. Such notice and demand shall be given in person, or shall be sent by certified mail to such person's last known address, no less than ten (10) days before the date of levy.

(2) (a) The effect of a levy on salary or wages payable to or received by a person shall be continuous from the date such levy is first made until the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time.

(b) With respect to a levy described in paragraph (a) of this subsection, the *department*~~[cabinet]~~ shall promptly release the levy when the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time, and shall promptly notify the person upon whom such levy was made that such levy has been released.

Section 143. KRS 131.520 is amended to read as follows:

(1) Any person in possession of or obligated with respect to property or rights to property subject to levy upon which a levy has been made shall, upon demand of the *commissioner*~~[secretary]~~ or his delegate, surrender such property or rights or discharge such obligation to the *commissioner*~~[secretary]~~ or his delegate, except such part of the property or rights as is, at the time of such demand, subject to an attachment or execution under any judicial process.

(2) Any person who fails or refuses to surrender any property or rights to property subject to levy shall be liable in his own person and estate to the Commonwealth in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of taxes for the collection of which such levy has been made, together with costs and interest on such sum at the rate of twelve percent (12%) per annum from the date of such levy. Any amount other than costs recovered under this paragraph shall be credited against the tax liability for the collection of which such levy was made.

(3) Any person in possession of or obligated with respect to property or rights to property subject to levy upon which a levy has been made who, upon demand by the *commissioner*~~[secretary]~~ or his delegate, surrenders such property or rights to property or discharges such obligation to the *commissioner*~~[secretary]~~ or his delegate shall be discharged from any obligation or liability to the delinquent taxpayer with respect to such property or rights to property arising from such surrender or payment.

Section 144. KRS 131.530 is amended to read as follows:

(1) Any person whose property has been levied upon shall have the right to pay the amount due, together with the expense of the proceeding, to the *commissioner*~~[secretary]~~ or his delegate at any time prior to the sale thereof and upon such payment the *commissioner*~~[secretary]~~ or his delegate shall cause such property to be restored to him and all further proceedings in connection with the levy on such property shall cease from the time of such payment.

(2) The owner of any real property sold as provided in KRS 131.500(1), his heirs, executors, or administrators, or any person having an interest therein, or a lien thereon, or any person in his behalf, shall be permitted to redeem the real property sold or any particular tract of such property, at any time within one hundred twenty (120) days after the date of the sale. Such property or tract of property shall be permitted to be redeemed only upon payment to the purchaser, or in case he cannot be found in the county in which the property to be redeemed is situated, then to the *commissioner*~~[secretary]~~ or his delegate, for the use of the purchaser, his heirs, or assigns, the amount paid by such purchaser and interest thereon at the rate of twenty percent (20%) per annum from the date of sale.

(3) In the case of property sold pursuant to KRS 131.500(1), the *commissioner*~~[secretary]~~ or his delegate shall give to the purchaser a certificate of sale upon payment in full of the purchase price. The certificate shall set forth a description of the property purchased, for whose taxes the property was sold, and the price paid therefor.

(4) In all cases where property is sold pursuant to KRS 131.500(1), except real property, the certificate of sale issued pursuant to subsection (3) of this section shall have the following effect:

(a) Shall be prima facie evidence of the rights of the *commissioner*~~[secretary]~~ or his delegate to make such sale, and of the regularity of the proceeding of the sale; and

(b) Shall transfer to the purchaser all right, title and interest of the taxpayer in and to the property sold; and

(c) If such property consists of stock, shall be notice, when received, to any corporation, company, or association of such transfer, and shall be authority to such corporation, company, or association to record the transfer on its books and records in the same manner as if the stocks were transferred or assigned by the party holding the same, in lieu of any prior certificate, which shall be void, whether canceled or not; and

(d) If the subject of sale is securities or other evidences of debt, shall be a good and valid receipt to the person holding the same, as against any person holding or claiming to hold possession of such securities or other evidences of debt; and

(e) If such property consists of a motor vehicle, shall be notice, when received by any public official charged with the registration of title to motor vehicles, of such transfer and shall be authority to such official to record the transfer on his books and records in the same manner as if title to such motor vehicle were transferred or assigned by the party holding the same, in lieu of any original or prior title, which shall be void, whether canceled or not.

(5) In the case of any real property sold pursuant to KRS 131.500(1) and not redeemed in the manner and within the time provided in subsection (2) of this section, the *commissioner*~~[secretary]~~ or his delegate shall execute in accordance with the laws of the Commonwealth, to the purchaser of such real property upon surrender of the certificate of sale, a deed to the real property so purchased by him, reciting the facts set forth in the certificate. The deed executed pursuant to this subsection shall have the following effect:

(a) Shall be prima facie evidence of the rights of the *commissioner*~~[secretary]~~ or his delegate to make such sale, and of the regularity of the proceedings of the sale; and

(b) If the proceedings of the *commissioner*~~[secretary]~~ or his delegate have been substantially in accordance with the provisions of KRS 131.500, such deed shall be considered and operate as a conveyance of all right, title and interest the taxpayer has in and to the real property thus sold at the time the lien of the Commonwealth attached thereto.

(6) A certificate of sale of personal property given or a deed to real property executed pursuant to this section shall discharge such property from all liens, encumbrances, and titles over which the lien of the Commonwealth, with respect to which the levy was made, had priority.

Section 145. KRS 131.540 is amended to read as follows:

(1) It shall be lawful for the *commissioner*~~[secretary]~~ or his delegate, under regulations prescribed by the *commissioner*~~[secretary]~~, to release the levy upon all or part of the property or rights to property levied upon where the *commissioner*~~[secretary]~~ or his delegate determines that such action will facilitate the collection of the liability, but such release shall not operate to prevent any subsequent levy.

(2) If the *commissioner*~~[secretary]~~ determines that property has been wrongfully levied upon, it shall be lawful for the *commissioner*~~[secretary]~~ to return the specific property levied upon, or an amount of money equal to the amount of money levied upon, or any amount of money equal to the amount of money received by the *commissioner*~~[secretary]~~ from a sale of such property.

(3) Property may be returned at any time. An amount equal to the amount of money levied upon or received from such sale may be returned at any time before the expiration of four (4) years from the date of such levy.

Section 146. KRS 131.550 is amended to read as follows:

(1) When the *Department of* Revenue~~[Cabinet]~~ reasonably believes that any taxpayer has divested himself by gift, conveyance, assignment, transfer of, or charge upon any property, whether real, personal, tangible or intangible, with the intent to hinder or evade the collection of any tax assessed or to be assessed by the

department~~[cabinet]~~ or declared by the taxpayer on a return filed with the *department*~~[cabinet]~~, any transferee of such property may be assessed by the *Department of* Revenue~~[Cabinet]~~ an amount equal to the lesser of the amount of tax assessed against the transferor taxpayer or the fair market value of the property so transferred. However, no assessment shall be made pursuant to this section against a transferee who takes the property for full and valuable consideration in money or money's worth, unless it appears that such transferee had notice of the intent of the transferor taxpayer to hinder or evade the collection of any tax.

(2) Any assessment made by the *Department of* Revenue~~[Cabinet]~~ against a transferee pursuant to subsection (1) of this section is, except as provided in this section, subject to the same provisions and limitations as in the case of the taxes for which the liabilities were incurred.

(3) The period of limitation for assessment of any liability against a transferee pursuant to subsection (1) of this section shall be as follows:

(a) In the case of an initial transferee, within one (1) year after the expiration of the period of limitation for assessment against the transferor taxpayer; and

(b) In the case of the liability of a transferee of a transferee, within one (1) year after the expiration of the period of limitation for assessment against the preceding transferee, but not more than three (3) years after the expiration of the period of limitation for assessment against the initial transferor taxpayer.

(4) The notice of any assessment against a transferee made pursuant to subsection (1) of this section shall be either given to the transferee in person or sent by mail to such transferee's last known address.

Section 147. KRS 131.560 is amended to read as follows:

Notwithstanding the provisions of KRS 44.030 or 131.190, the *Department of* Revenue~~[Cabinet]~~ shall withhold the Kentucky individual income tax refund otherwise due a taxpayer under KRS Chapter 141 who owes overdue child support or is indebted to any state agency, officer, board, commission, corporation, institution, cabinet, department or other state organization which has complied with the requirements of KRS 131.565. After satisfaction of any undisputed delinquent tax liability due the *Department of* Revenue ~~[Cabinet]~~from such taxpayer, the tax refund balance so withheld shall, except as provided in KRS 131.565, be transmitted as soon as practicable to the state agency having established a claim therefor. In the case of multiple state agency claims against the same tax refund, the agency having the larger pending claim shall have priority after satisfaction of any undisputed delinquent tax liabilities due the *Department of* Revenue~~[Cabinet]~~.

Section 148. KRS 131.565 is amended to read as follows:

(1) For purposes of this section, "state agency" or "state agencies" shall include the Court of Justice as defined in KRS 45.241.

(2) No state agency shall request the withholding of any individual income tax refund unless there is specific provision in statute or administrative regulation for debtor appeal and hearing rights for that particular debt.

(3) State agencies having the statutory and regulatory provisions described in subsection (2) of this section shall establish claims against Kentucky individual income tax refunds by notifying the *commissioner*~~[secretary]~~ of revenue in writing by a date established by the *Department of* Revenue~~[Cabinet]~~ and, by dates agreed to by the *Department of* Revenue~~[Cabinet]~~ and each state agency, shall furnish a list of all liquidated debts due the agency for which withholding is required for individual income tax refunds due to be paid to the debtor of the claimant agency. This list shall be submitted in such form and contain such information as may be required by the *commissioner*~~[secretary]~~ of revenue to facilitate identification of the refunds to be withheld. As used in this section the term "liquidated debt" means a legal debt for a sum certain, which has been certified by the claimant agency as final due and owing. The claimant agency must have made reasonable efforts to collect such debt, and must have provided the debtor the opportunity for appeal and formal hearing as provided by statute. The claimant agency shall send thirty (30) days' prior written notification to the debtor of the intention to submit the claim to the *Department of* Revenue~~[Cabinet]~~ for setoff as provided in KRS 131.570.

(4) The individual income tax refund withholding procedures provided in KRS 131.560 to 131.595 shall be in lieu of the procedures set forth in KRS 427.130 and 44.030 only with regard to sums due to a debtor from the *Department of* Revenue~~[Cabinet]~~.

(5) No state agency shall request the withholding of any individual income tax refund unless the debt for which withholding is requested is in a liquidated amount.

(6) Each state agency requesting the withholding of any individual income tax refund shall indemnify the *Department of* Revenue~~[Cabinet]~~ against any and all damages, court costs, attorneys fees and any other expenses related to litigation which arises concerning the administration of KRS 131.560 to 131.595 as it pertains to a refund withholding action requested by such agency.

(7) Those state agencies requesting the withholding of individual income tax refunds shall, on a per unit cost or other equitable basis determined by the *Department of* Revenue~~[Cabinet]~~, reimburse the *Department of* Revenue~~[Cabinet]~~ for all development, implementation and administration costs incurred but not otherwise funded under the provisions of KRS 131.560 to 131.595.

(8) The *Department of* Revenue~~[Cabinet]~~ may decline the withholding of individual income tax refunds from agencies if the request would adversely impact the operation of the *Department of* Revenue~~[Cabinet]~~.

Section 149. KRS 131.570 is amended to read as follows:

(1) Upon determining that a pending individual income tax refund is subject to setoff as authorized under this section, the debtor shall be notified in writing by the *Department of* Revenue~~[Cabinet]~~ of the claim made against such refund by the named claimant agency, and of the *Department of Revenue's*~~[Revenue Cabinet's]~~ intention to set off the refund against the debt to the claimant agency. The notice shall provide that the debtor within thirty (30) days from the date of the notice may request a hearing before the claimant agency as provided by statute. No issues at such hearing may be considered that have been litigated previously and the debtor, after being given due notice of rights of appeal, must exercise such rights in a timely manner. The decision of the claimant agency shall be subject to appeal as all other decisions rendered by the claimant agency. No funds shall be transferred to a claimant agency until the debtor's appeal rights have been exhausted.

(2) Any excess of the pending refund amount over the total claim filed against such refund shall be promptly issued to the taxpayer by the *Department of* Revenue~~[Cabinet]~~.

(3) In the event funds transmitted to a claimant agency are subsequently determined by the claimant agency to be in excess of the liquidated debt, such claimant agency shall promptly refund the excess to the taxpayer.

(4) In the event the *Department of* Revenue~~[Cabinet]~~ erroneously transfers funds to a claimant agency, the claimant agency shall immediately upon notification thereof reimburse the *Department of* Revenue~~[Cabinet]~~ for the amount erroneously transmitted to such agency. The *Department of* Revenue~~[Cabinet]~~ shall promptly refund to the taxpayer the appropriate amount of such returned funds with interest as provided in KRS 131.183(2).

Section 150. KRS 131.575 is amended to read as follows:

(1) Any individual income tax refund determined as a consequence of taxpayers filing separate returns on a combined Kentucky individual income tax form may be apportioned by the *Department of* Revenue~~[Cabinet]~~ between the spouses based on the ratio of the adjusted gross incomes of each spouse to the total adjusted gross income. The amount of the refund computed to be due the spouse who is not indebted to the claimant agency shall be refunded by the *Department of* Revenue~~[Cabinet]~~ to such spouse. In the event such refunded amount has been transmitted to the claimant agency, the *Department of* Revenue~~[Cabinet]~~ shall recover such amount from the claimant agency as provided in KRS 131.570(4).

(2) Any individual income tax refund determined as a consequence of taxpayers filing a joint Kentucky individual income tax return shall be deemed as coupled together in interest or liability and shall be subject to transfer to a claimant agency in its entirety.

Section 151. KRS 131.580 is amended to read as follows:

The *Department of* Revenue~~[Cabinet]~~ may promulgate rules and regulations necessary to develop, implement and administer the provisions of KRS 131.560 to 131.595.

Section 152. KRS 131.585 is amended to read as follows:

There is hereby created within the *Department of* Revenue~~[Cabinet]~~ a state debt offset account, which will be subject to the provisions of the restricted fund group, as provided in KRS 48.010(13)(f), and all funds collected under KRS 131.565(6) shall be credited thereto with only the expenses of the *Department of* Revenue~~[Cabinet]~~ related to development, implementation and administration of KRS 131.560 to 131.595 to be paid therefrom. This account shall not lapse.

Section 153. KRS 131.600 is amended to read as follows:

As used in this section and KRS 131.602:

(1) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the master settlement agreement.

(2) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned," and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent (10%) or more, and the term "person" means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

(3) "Allocable share" means allocable share as that term is defined in the master settlement agreement.

(4) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

(a) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;

(b) Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

(c) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (a) of this subsection.

The term "cigarette" includes "roll-your-own", i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this definition of "cigarette," nine-hundredths (0.09) ounces of "roll-your-own" tobacco shall constitute one (1) individual "cigarette."

(5) "Master settlement agreement" means the settlement agreement and related documents entered into on November 23, 1998, by Kentucky and leading United States tobacco product manufacturers.

(6) "Qualified escrow fund" means an escrow arrangement with a federally or state-chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least one billion dollars ($1,000,000,000) where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing, or directing the use of the funds' principal except as consistent with KRS 131.602(2).

(7) "Released claims" means released claims as that term is defined in the master settlement agreement.

(8) "Releasing parties" means releasing parties as that term is defined in the master settlement agreement.

(9) "Tobacco product manufacturer" means an entity that after June 30, 2000, directly and not exclusively through any affiliate:

(a) Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer, except where such importer is an original participating manufacturer, as that term is defined in the master settlement agreement, that will be responsible for the payments under the master settlement agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the master settlement agreement and that pays the taxes specified in subsection II(z) of the master settlement agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States;

(b) Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(c) Becomes a successor of an entity described in paragraph (a) or (b) of this subsection.

The term "tobacco product manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of the definitions described in paragraph (a), (b), or (c) of this subsection.

(10) "Units sold" means the number of individual cigarettes sold in Kentucky by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, during the year in question, as measured by excise taxes collected by Kentucky on packs or "roll-your-own" tobacco containers bearing the excise tax stamp of Kentucky. The *Department of* Revenue~~[Cabinet]~~ shall promulgate such regulations as are necessary to ascertain the amount of state excise tax paid on the cigarettes of such tobacco product manufacturer for each year.

Section 154. KRS 131.590 is amended to read as follows:

To defray the cost of development and implementation of KRS 131.560 to 131.595, there shall be credited to the state debt offset account an amount not to exceed $175,000, such amount to be derived from the amount of the Kentucky individual income tax refunds withheld under the provisions of KRS 131.560 to 131.595 for undisputed delinquent taxes due the *Department of* Revenue~~[Cabinet]~~.

Section 155. KRS 131.600 is amended to read as follows:

As used in this section and KRS 131.602:

(1) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the master settlement agreement.

(2) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned," and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent (10%) or more, and the term "person" means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

(3) "Allocable share" means allocable share as that term is defined in the master settlement agreement.

(4) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

(a) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;

(b) Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

(c) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (a) of this subsection.

The term "cigarette" includes "roll-your-own", i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this definition of "cigarette," nine-hundredths (0.09) ounces of "roll-your-own" tobacco shall constitute one (1) individual "cigarette."

(5) "Master settlement agreement" means the settlement agreement and related documents entered into on November 23, 1998, by Kentucky and leading United States tobacco product manufacturers.

(6) "Qualified escrow fund" means an escrow arrangement with a federally or state-chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least one billion dollars ($1,000,000,000) where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing, or directing the use of the funds' principal except as consistent with KRS 131.602(2).

(7) "Released claims" means released claims as that term is defined in the master settlement agreement.

(8) "Releasing parties" means releasing parties as that term is defined in the master settlement agreement.

(9) "Tobacco product manufacturer" means an entity that after June 30, 2000, directly and not exclusively through any affiliate:

(a) Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer, except where such importer is an original participating manufacturer, as that term is defined in the master settlement

agreement, that will be responsible for the payments under the master settlement agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the master settlement agreement and that pays the taxes specified in subsection II(z) of the master settlement agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States;

(b) Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(c) Becomes a successor of an entity described in paragraph (a) or (b) of this subsection.

The term "tobacco product manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of the definitions described in paragraph (a), (b), or (c) of this subsection.

(10) "Units sold" means the number of individual cigarettes sold in Kentucky by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, during the year in question, as measured by excise taxes collected by Kentucky on packs or "roll-your-own" tobacco containers bearing the excise tax stamp of Kentucky. The *Department of* Revenue~~[Cabinet]~~ shall promulgate such regulations as are necessary to ascertain the amount of state excise tax paid on the cigarettes of such tobacco product manufacturer for each year.

Section 156. KRS 131.604 is amended to read as follows:

As used in KRS 131.604 to 131.630:

(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) "*Commissioner*~~[Secretary]~~" means the *commissioner*~~[secretary]~~ of the *Department of* Revenue~~[Cabinet]~~.

(9) "*Department*~~[Cabinet]~~" means the *Department of* 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 157. KRS 131.610 is amended to read as follows:

(1) The Attorney General shall develop and make available to the *department*~~[cabinet]~~ for public inspection, to include publishing on the *department's*~~[cabinet's]~~ *Web site*~~[website]~~, a listing of all tobacco product manufacturers that have provided current and accurate certifications pursuant to KRS 131.608 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 *department*~~[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 KRS 131.608, 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 judgment, 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 *department*~~[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 KRS 131.608 and 131.620. The *department*~~[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 *department*~~[cabinet]~~ for the purpose of receiving any notifications that may be required by this section and KRS 131.608, 131.616, 131.620, and 131.624.

(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 KRS 131.608. 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 his or her intent to remove the manufacturer from the directory, the Attorney General shall post the notice in the directory.

Section 158. KRS 131.616 is amended to read as follows:

On or before the twentieth day of each month, each stamping agent and distributor shall submit documentation that the *commissioner*~~[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 *commissioner*~~[secretary]~~, all invoices and documentation of sales of all nonparticipating manufacturer cigarettes and any other information relied upon in reporting to the *commissioner*~~[secretary]~~ for a period of five (5) years.

Section 159. KRS 131.618 is amended to read as follows:

(1) Notwithstanding KRS 131.190, the *commissioner*~~[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 131.604 to 131.630 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 KRS 131.608, 131.614, and 131.620, the Attorney General or the *commissioner*~~[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 KRS 131.604 to 131.630.

Section 160. KRS 131.622 is amended to read as follows:

(1) Any cigarettes that have been affixed with a stamp in this state in violation of KRS 131.612 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 KRS 131.612 or 131.616 by a distributor or stamping agent and to compel the distributor or stamping agent to comply with KRS 131.612 and 131.616. 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 KRS 131.612 or 131.616.

(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 KRS 131.612. 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 KRS 131.612 or any regulation adopted pursuant to KRS 131.604 to 131.630, the *commissioner*~~[secretary]~~ may suspend the sale of cigarette stamps to the stamping agent or distributor for failure to comply with the provisions of KRS 131.604 to 131.630.

Section 161. KRS 131.624 is amended 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 KRS 131.610 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 KRS 131.604 to 131.630.

(3) The Attorney General or the *department*~~[cabinet]~~ may promulgate administrative regulations necessary to effect the purposes of KRS 131.604 to 131.630.

Section 162. KRS 131.630 is amended 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 KRS 131.604 to 131.630 or any administrative regulation promulgated thereunder, the *commissioner*~~[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 KRS 131.612 shall constitute a separate violation. The *commissioner*~~[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 KRS 131.612 or any administrative regulations promulgated thereunder. The penalty shall be imposed in the manner provided by KRS 138.195 and 138.205.

Section 163. KRS 131.650 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 131.190 or any other confidentiality law to the contrary, the *department*~~[cabinet]~~ may publish a list or lists of taxpayers that owe delinquent taxes or fees administered by the *Department of* Revenue~~[Cabinet]~~, and that meet the requirements of KRS 131.652.

(2) For purposes of this section, a taxpayer may be included on a list if:

(a) The taxes or fees owed remain unpaid at least forty-five (45) days after the dates they became due and payable; and

(b) A tax lien or judgment lien has been filed of public record against the taxpayer before notice is given under KRS 131.654.

(3) In the case of listed taxpayers that are business entities, the *Department of* Revenue~~[Cabinet]~~ may also list the names of responsible persons assessed pursuant to KRS 136.565, 138.885, 139.185, 141.340, and 142.357 for listed liabilities, who are not protected from publication by subsection (2) of this section, and for whom the requirements of KRS 131.652 are satisfied with regard to the personal assessment.

(4) Before any list is published under this section, the *department*~~[cabinet]~~ shall document that each of the conditions for publication as provided in this section has been satisfied, and that procedures were followed to ensure the accuracy of the list and notice was given to the affected taxpayers.

Section 164. KRS 131.652 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~ may publish a list of all of the taxpayers described in KRS 131.650.

(2) For the purposes of this section, a tax or fee is not delinquent if:

(a) The procedures enumerated in KRS 131.110 have not been waived or exhausted at the time when notice would be given under KRS 131.654; or

(b) The liability is subject to a payment agreement and there is no delinquency in the payments required under the agreement.

(3) Unpaid liabilities are not subject to publication if:

(a) The *department*~~[cabinet]~~ is in the process of reviewing or adjusting the liability;

(b) The taxpayer is a debtor in a bankruptcy proceeding and the automatic stay is in effect;

(c) The *department*~~[cabinet]~~ has been notified that the taxpayer is deceased; or

(d) The time period for enforced collection of the taxes or fees has expired.

Section 165. KRS 131.652 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~ may publish a list of all of the taxpayers described in KRS 131.650.

(2) For the purposes of this section, a tax or fee is not delinquent if:

(a) The procedures enumerated in KRS 131.110 have not been waived or exhausted at the time when notice would be given under KRS 131.654; or

(b) The liability is subject to a payment agreement and there is no delinquency in the payments required under the agreement.

(3) Unpaid liabilities are not subject to publication if:

(a) The *department*~~[cabinet]~~ is in the process of reviewing or adjusting the liability;

(b) The taxpayer is a debtor in a bankruptcy proceeding and the automatic stay is in effect;

(c) The *department*~~[cabinet]~~ has been notified that the taxpayer is deceased; or

(d) The time period for enforced collection of the taxes or fees has expired.

Section 166. KRS 131.658 is amended to read as follows:

The *department*~~[cabinet]~~ shall remove the name of a taxpayer from the list of delinquent taxpayers after the *department*~~[cabinet]~~ receives written notice of and verifies any of the following facts about the liability in question:

(1) The taxpayer has contacted the *department*~~[cabinet]~~ and arranged resolution of the liability;

(2) An active bankruptcy proceeding has been initiated for the liability; or

(3) A bankruptcy proceeding concerning the liability has resulted in discharge of the liability.

Section 167. KRS 131.660 is amended to read as follows:

If the *department*~~[cabinet]~~ publishes a name under KRS 131.650 in error, the taxpayer whose name was erroneously published has all the rights enumerated in KRS 131.081 for an aggrieved taxpayer.

Section 168. KRS 131.990 is amended to read as follows:

(1) Any person who fails or refuses to obey a subpoena or order of the Kentucky Board of Tax Appeals made pursuant to KRS Chapter 13B shall be fined not less than twenty-five dollars ($25) nor more than five hundred dollars ($500).

(2) (a) Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(1) shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(b) Any person who violates the provisions of KRS 131.190(1) by divulging confidential taxpayer information shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or both.

(c) Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(4) shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or both.

(d) Any person who violates the provisions of KRS 131.190(4) by divulging confidential taxpayer information shall be fined not more than five thousand dollars ($5,000) or imprisoned for not more than five (5) years, or both.

(e) Any present *secretary or employee of the Finance and Administration Cabinet, commissioner*~~[secretary]~~ or employee of the *Department of* Revenue~~[Cabinet]~~, member of a county board of assessment appeals, property valuation administrator or employee, or any other person, who violates the provisions of KRS 131.190(1) or (4) may, in addition to the penalties imposed under this subsection, be disqualified and removed from office or employment.

(3) Any person who willfully fails to comply with the rules and regulations promulgated by the *Department of* Revenue~~[Cabinet]~~ for the administration of delinquent tax collections shall be fined not less than twenty dollars ($20) nor more than one thousand dollars ($1,000).

(4) Any person who fails to do any act required or does any act forbidden by KRS 131.210 shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(5) Any person who fails to comply with the provisions of KRS 131.155 shall, unless it is shown to the satisfaction of the *department*~~[cabinet]~~ that the failure is due to reasonable cause, pay a penalty of one-half of one percent (0.5%) of the amount that should have been remitted under the provisions of KRS 131.155 for each failure to comply.

Section 169. KRS 132.010 is amended to read as follows:

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

(1) "*Department*~~[Cabinet]~~" means the *Department of* Revenue~~[Cabinet]~~.

(2) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(3) "Real property" includes all lands within this state and improvements thereon.

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state.

(6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent ($0.001) per one hundred dollars ($100) of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land.

(7) "Net assessment growth" means the difference between:

(a) The total valuation of property subject to taxation by the county, city, school district, or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and

(b) The total valuation of property subject to taxation by the county, city, school district, or special district for the current year.

(8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:

(a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction; however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one (1) school district to another;

(b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;

(c) The value of improvements to existing nonresidential property;

(d) The value of new residential improvements to property;

(e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;

(f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator, the value of such property as a farm shall be a deletion from that category;

(g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;

(h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and

(i) The value of improvements to real property previously under assessment moratorium.

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year.

(9) "Agricultural land" means:

(a) Any tract of land, including all income-producing improvements, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber;

(b) Any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for aquaculture; or

(c) Any tract of land devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government.

(10) "Horticultural land" means any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers, or ornamental plants.

(11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:

(a) Relative percentages of tillable land, pasture land, and woodland;

(b) Degree of productivity of the soil;

(c) Risk of flooding;

(d) Improvements to and on the land that relate to the production of income;

(e) Row crop capability including allotted crops other than tobacco;

(f) Accessibility to all-weather roads and markets; and

(g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income.

(12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value.

(13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including, but not limited to, lawns, drives, flower or vegetable gardens, outbuildings, and all other land connected thereto.

(14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner.

(15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property.

(16) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure.

(17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home.

(a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.

(b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.

(c) Truck camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.

(d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

Section 170. KRS 132.015 is amended to read as follows:

The property valuation administrator shall maintain lists of all real property additions and real property deletions to the property tax rolls for the county, consolidated local government, or urban-county, and each city, school district, and special district in the county, consolidated local government, or urban-county, and shall certify such lists to the *Department of* Revenue~~[Cabinet]~~, the city clerk of each city in the county which elects to use the annual county assessment as provided for in KRS 132.285, the treasurer or chief officer of each special district in the county, and the chief administrative officer of the urban-county and the consolidated local government at the time he files his recapitulation of property assessed on the tax roll with the *Department of* Revenue~~[Cabinet]~~.

Section 171. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of thirty-one and one-half cents ($0.315) upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half cents

($0.015) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, upon the prior approval of the Kentucky Economic Development Finance Authority, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of all money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board, fifteen cents ($0.15) upon machinery actually engaged in manufacturing, fifteen cents ($0.15) upon commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents ($0.15) upon property which has been certified as a pollution control facility as defined in KRS 224.01-300, one-tenth of one cent ($0.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five cents ($0.45) upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed, except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.300, 136.320, and other sections providing a different tax rate for particular property.

(2) (a) An annual ad valorem tax for state purposes of one and one-half cents ($0.015) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when the intangible personal properties have not acquired a taxable situs without this state:

1. Accounts receivable, notes, bonds, credits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;

2. Patents, trademarks, copyrights, and licensing or royalty agreements relating to these;

3. Notes, bonds, accounts receivable, and all other intercompany intangible personal property due from any affiliated company; and

4. Tobacco base allotments.

(b) An annual ad valorem tax for state purposes of one-thousandth of one percent (0.001%) shall be paid upon money in hand, notes, bonds, accounts, credits, and other intangible assets, whether by mortgage, pledge, or otherwise, or unsecured, of financial institutions, as defined in KRS 136.500.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school, or other taxing district on the intangible properties, or directly or indirectly against the owner.

(5) Thirty cents ($0.30) of the thirty-one and one-half cents ($0.315) state tax rate on real property and thirty cents ($0.30) of the forty-five cents ($0.45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents ($0.30), as certified by the Department of Education, the direct payments shall be reduced proportionately.

(6) The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the

increase exceeds the preceding year's assessment by more than four percent (4%), excluding the assessment from property which is subject to tax increment financing pursuant to KRS Chapter 65 and the assessment from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents ($0.015) pursuant to subsection (1) of this section. In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(7) By July 1 each year, the *department*~~[cabinet]~~ shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (5) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the *department*~~[cabinet]~~ shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the *department*~~[cabinet]~~, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the *department*~~[cabinet]~~, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(8) If the tax rate set by the *department*~~[cabinet]~~ as provided in subsection (6) of this section produces more than a four percent (4%) increase in real property tax revenues, excluding the revenue from property which is subject to tax increment financing pursuant to KRS Chapter 65 and the revenue from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents ($0.015) pursuant to subsection (1) of this section, the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

(9) The provisions of subsection (6) of this section notwithstanding, the assessed value of unmined coal certified by the *department*~~[cabinet]~~ after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (6) of this section. The calculated rate shall, however, be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 to 146.570, except that four hundred thousand dollars ($400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Kentucky Coal Council for the purpose of public education of coal-related issues.

(10) Effective on or after January 1, 1990, an ad valorem tax for state purposes of five cents ($0.05) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business, which, on or after January 1, 1999, includes machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement; and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business.

(11) An ad valorem tax for state purposes of ten cents ($0.10) per one hundred dollars ($100) of assessed value shall be paid on the operating property of railroads or railway companies that operate solely within the Commonwealth.

(12) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on aircraft not used in the business of transporting persons or property for compensation or hire.

(13) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes.

Section 172. KRS 132.030 is amended to read as follows:

(1) Every person having a deposit in any financial institution, as defined in KRS 136.500, on January 1 of any year shall pay an annual tax to the state equal to one-thousandth of one percent (0.001%) upon the amount of the deposit, and no deduction shall be made for any indebtedness. The deposit tax shall be paid to the *department*~~[cabinet]~~ by the financial institution with which the deposit is made, as the agent of the depositor, on or before March 1 following the date of the report provided for in KRS 132.040.

(2) No other tax shall be assessed by the state or any county, city, or other taxing district on the deposits or against the depositor on account of the deposits, except as provided in KRS 136.575.

Section 173. KRS 132.040 is amended to read as follows:

Each financial institution, as defined in KRS 136.500, shall file with the *department*~~[cabinet]~~ on or before March 1 of each year, a report setting forth the total amount of its deposits as of the preceding January 1 that are taxable in the name of the depositor under the laws of this state, and shall, on or before March 1 of each year, pay to the *department*~~[cabinet]~~ one-thousandth of one percent (.001%) of the amount of the deposits, and may charge to and deduct from the deposit of each depositor the amount of the tax paid on his behalf. Financial institutions shall have liens on the funds belonging to the respective depositors on which the tax has been paid. Any claim for taxes against the depositor by the financial institution paying the taxes shall be asserted within six (6) months after the payment of the taxes to the *department*~~[cabinet]~~, and no claims or liens shall be asserted after that time.

Section 174. KRS 132.047 is amended to read as follows:

(1) Every person having on September 1 of any year a savings account, in Kentucky in any credit union organized under the laws of this state or doing business in this state shall pay an annual tax to the state equal to one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of the savings account, and no deduction therefrom shall be made for any indebtedness. The tax shall be paid to the *Department of* Revenue~~[Cabinet]~~ by the credit union with which the savings account is made, as agent of the member on or before November 1 of each year. The credit union may charge to and deduct from the savings account of each member the amount of tax so paid on his behalf. A lien is hereby given to the credit union on the funds belonging to the respective member on which the tax has been so paid. Any claim for taxes against the member by the credit union paying the taxes shall be asserted within six (6) months after payment of the taxes to the *department*~~[cabinet]~~, and all claims or liens therefor shall be thereafter barred.

(2) Each credit union shall file with the *Department of* Revenue~~[Cabinet]~~ on or before September 21 each year a report setting forth the total amount of the savings account of members as of the preceding September 1 that would be taxable in the name of the member under the laws of this state.

(3) Any credit union that fails to make the returns or pay the taxes on behalf of its members within the time limits prescribed by KRS 132.043 and 132.047 shall be subject to the penalties and interest provided in KRS 131.180.

(4) No other tax shall be assessed by the state or any county, city, or other taxing district on such savings account or against the members on account of such savings account.

Section 175. KRS 132.060 is amended to read as follows:

(1) Every broker maintaining an office or place of business in this state for the conduct of the business of buying or selling bonds or other securities, excluding stocks and mutual funds, for customers in margin transactions shall report to the *Department of* Revenue~~[Cabinet]~~ as of January 1 of each year, the aggregate amount, with an accurate description and the market value, of all such securities then held or carried by such broker for each office or place of business in the state for resident customers, which report shall be filed with the *department*~~[cabinet]~~ on or before March 1 of each year.

(2) If the broker has doubt as to whether or not a customer is a resident of this state, he may, on or before making the required report, call upon the customer to submit an affidavit upon a form to be prescribed by the *department*~~[cabinet]~~, stating the facts relied upon to establish his nonresidence. The broker may then report to the *department*~~[cabinet]~~ the name and post office address of such customer and the information as to securities held or carried for him, and file therewith the customer's affidavit. The broker shall then be relieved from making any further report and from collecting or paying any taxes for the customer.

(3) If the customer fails or refuses to furnish the affidavit required by the broker, the broker shall report and pay the tax for the customer, who shall then have no claim against the broker because of the payment of the tax charged to the customer's account.

Section 176. KRS 132.070 is amended to read as follows:

Upon the filing of the report required by KRS 132.060, the *department*~~[cabinet]~~ shall assess the securities therein reported for taxation at their fair cash value, insofar as subject to taxation in this state, and shall fix the amount of tax due thereon at the rate prescribed by KRS 132.020, and render to the broker a tax bill covering the full amount of taxes due to the state under the securities so reported.

Section 177. KRS 132.080 is amended to read as follows:

The taxes fixed under KRS 132.070 shall be paid to the *Department of* Revenue~~[Cabinet]~~ by the broker within thirty (30) days after the rendition of the tax bill, subject to the same rate of discount provided in KRS 134.020. The broker may charge to and collect from each customer his portion of the tax levied upon the securities held or carried for him. If the broker fails to pay the taxes when due, he shall be liable for interest thereon at the tax interest rate as defined in KRS 131.010(6), and an additional penalty of ten percent (10%) upon the amount of the taxes with interest.

Section 178. KRS 132.130 is amended to read as follows:

(1) Effective January 1, 1967, every owner, proprietor, or custodian of a bonded warehouse or of premises under the control and supervision of the United States Internal Revenue Service, in which distilled spirits are stored shall between January 1 and February 1 of each year file with the *Department of* Revenue~~[Cabinet]~~ a report sworn to by him showing the quantity and kind of distilled spirits in the bonded warehouse or premises as of January 1 of that year; the quantity and kind of spirits on which the federal tax has been paid or is due; what distilled spirits have been removed from the bonded warehouse or premises for transfer in bond out of this state during the preceding twelve (12) months; the county, city, and taxing district in which such distilled spirits were certified for taxation; the fair cash value of the distilled spirits estimated at a price it would bring at a fair voluntary sale; and such other facts pertaining to the distilled spirits as the *department*~~[cabinet]~~ may require.

(2) On January 1, May 1, and September 1, after the federal tax has been paid or becomes due, or after any of the distilled spirits are removed from the bonded warehouse or premises for transfer in bond out of this state, every owner, proprietor, or custodian of a bonded warehouse or premises in which distilled spirits are stored upon which taxes have accrued on assessments prior to January 1, 1967, shall file with the *Department of* Revenue~~[Cabinet]~~ and the county clerk, in which county the distilled spirits were at the time of the assessment, a statement, sworn to by him, showing the quantity of the distilled spirits on which the federal tax has been paid or is due; what distilled spirits have been removed from the bonded warehouse or premises or transferred in bond out of this state during the preceding four (4) months; the years in which such distilled spirits were assessed for taxation; and the county, city, or taxing district in which the distilled spirits were stored at the time of the assessment. At the same time, all taxes and interest on such distilled spirits due the state, county, or other taxing district shall be paid to the officers entitled to receive them. The report required by this section shall be made whether or not any distilled spirits are stored in the bonded warehouse or premises at the time the report is due.

Section 179. KRS 132.140 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~ shall fix the value of the distilled spirits for the purpose of taxation, assess the same at its fair cash value, estimated at the price it would bring at a fair voluntary sale, and keep a record of its valuations and assessments. The *department*~~[cabinet]~~ shall immediately notify the owner or proprietor of the bonded warehouse or premises of the amount fixed.

(2) If any owner, proprietor, or custodian of a bonded warehouse or premises fails to make the report required by KRS 132.130, the *department*~~[cabinet]~~ shall ascertain the necessary facts required to be reported. For that purpose the *department*~~[cabinet]~~ shall have access to the records of the owner, proprietor, or custodian; and the assessment shall be made and taxes collected thereon, with interest and penalties, as though regularly reported.

(3) The assessment made under (1) of this section shall be reviewed according to KRS 131.110.

Section 180. KRS 132.150 is amended to read as follows:

Immediately after the valuation of the distilled spirits has been finally fixed, the *department*~~[cabinet]~~ shall certify to the county clerks of the respective counties the amount liable for county, city, or district taxation, and the date when the bonded period will expire on the spirits. The report shall be filed by the county clerk in his office, and certified by him to the proper collecting officer of the county, city, or taxing district for collection. The spirits, in addition to the tax for state purposes, shall be taxed for county, school, and city purposes at the prevailing rates of taxation on tangible personal property in the respective counties, school districts, and cities in which the spirits are stored, but the combined rate of taxation for city and school purposes in cities of the first class shall not exceed one dollar and twenty-five cents ($1.25) on each one hundred dollars ($100) of assessed value of the spirits.

Section 181. KRS 132.180 is amended to read as follows:

(1) Any person having custody of distilled spirits in a bonded warehouse or premises on the day as of which the assessment is made shall be liable for all taxes due thereon, together with all interest and penalties that may

accrue. Any owner, proprietor, or custodian of such distilled spirits who pays the taxes, interest and penalties on the distilled spirits shall have a lien thereon for the amount paid, with legal interest from day of payment.

(2) Taxes on distilled spirits which are subject to the provisions of KRS 132.160(1)(a) shall become due and payable in the manner provided by KRS 134.020 except that taxes due the state shall be paid directly to the *Department of* Revenue~~[Cabinet]~~.

Section 182. KRS 132.216 is amended to read as follows:

(1) Every life insurance company organized under the laws of this state, or doing business in this state, shall by February 15 of each year make a true and correct report to the *Department of* Revenue~~[Cabinet]~~, on forms prescribed by the *Department of* Revenue~~[Cabinet]~~, verified by its president, secretary, treasurer, or other proper officer, giving the names and addresses of residents of this state entitled to proceeds of life insurance policies left on deposit with the insurance company and subject to the right of withdrawal as of January 1 previous thereto, with the amount left on deposit in each individual's name, and other information as may be required by the *Department of* Revenue~~[Cabinet]~~ by regulation.

(2) Every life insurance company organized under the laws of this state, or doing business in this state, shall by February 15 of each year make a true and correct report to the *Department of* Revenue~~[Cabinet]~~, on forms prescribed by the *Department of* Revenue~~[Cabinet]~~, verified by its president, secretary, treasurer, or other proper officer, giving the name and address of any resident of this state who is the beneficiary of a policy or policies with the insurance company, subject to taxation under KRS 132.215, with the amount paid to the Kentucky resident during the twelve (12) months immediately preceding January 1, the age of the individual receiving these payments as of January 1, and such other information as the *Department of* Revenue~~[Cabinet]~~ may require by regulation.

Section 183. KRS 132.220 is amended to read as follows:

(1) Deposits belonging to a resident of Kentucky in any financial institution, as defined in KRS 136.500, and unmanufactured tobacco insofar as it is subject to taxation by KRS 132.190 and 132.200, shall be listed, assessed, and valued as of January 1 of each year. Money in hand shall be listed, assessed, and valued as of January 1 of each year. Notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and all interest in the property, unless otherwise provided by law, shall be listed, assessed, and valued as of the beginning of business on January 1 of each year. All other taxable property and all interest in other taxable property, unless otherwise specifically provided by law, shall be listed, assessed, and valued as of January 1 of each year. It shall be the duty of all persons owning or having any interest in any real property taxable in this state to list or have listed the property with the property valuation administrator of the county where it is located between January 1 and March 1 in each year, except as otherwise provided by law. It shall be the duty of all persons owning or having any interest in any intangible personal property or tangible personal property taxable in this state to list or have listed the property with the property valuation administrator of the county of taxable situs or with the *department*~~[cabinet]~~ between January 1 and May 15 in each year, except as otherwise prescribed by law. The filing date for an individual's intangible property tax return may be extended to the extended federal income filing date approved by the Internal Revenue Service for that individual. If an individual extends the filing date for the intangible return, no discount shall be allowed upon the payment of the intangible tax. All persons in whose name property is properly assessed shall remain bound for the tax, notwithstanding they may have sold or parted with it.

(2) Any taxpayer may list his property in person before the property valuation administrator or his deputy, or may file a property tax return by first class mail. Any real property correctly and completely described in the assessment record for the previous year, or purchased during the preceding year and for which a value was stated in the deed according to the provisions of KRS 382.135, may be considered by the owner to be listed for the current year if no changes that could potentially affect the assessed value have been made to the property. However, if requested in writing by the property valuation administrator or by the *department*~~[cabinet]~~, any real property owner shall submit a property tax return to verify existing information or to provide additional information for assessment purposes. Any real property which has been underassessed as a result of the owner intentionally failing to provide information, or intentionally providing erroneous information, shall be subject to revaluation, and the difference in value shall be assessed as omitted property under the provisions of KRS 132.290.

(3) If the owner fails to list the property, the property valuation administrator shall nevertheless assess it. The property valuation administrator may swear witnesses in order to ascertain the person in whose name to make the list. The property valuation administrator, his employee, or employees of the *department*~~[cabinet]~~ may

physically inspect and revalue land and buildings in the absence of the property owner or resident. The exterior dimensions of buildings may be measured and building photographs may be taken; however, with the exception of buildings under construction or not yet occupied, an interior inspection of residential and farm buildings, and of the nonpublic portions of commercial buildings shall not be conducted in the absence or without the permission of the owner or resident.

(4) Real property shall be assessed in the name of the owner, if ascertainable by the property valuation administrator, otherwise in the name of the occupant, if ascertainable, and otherwise to "unknown owner." The undivided real estate of any deceased person may be assessed to the heirs or devisees of the person without designating them by name.

(5) Real property tax roll entries for which tax bills have not been collected at the expiration of the one (1) year tolling period provided for in KRS 134.470, and for which the property valuation administrator cannot physically locate and identify the real property, shall be deleted from the tax roll and the assessment shall be exonerated. The property valuation administrator shall keep a record of these exonerations, which shall be open under the provisions of KRS 61.870 to 61.884. If, at any time, one of these entries is determined to represent a valid parcel of property it shall be assessed as omitted property under the provisions of KRS 132.290. Notwithstanding other provisions of the Kentucky Revised Statutes to the contrary, any loss of ad valorem tax revenue suffered by a taxing district due to the exoneration of these uncollectable tax bills may be recovered through an adjustment in the tax rate for the following year.

(6) All real property exempt from taxation by Section 170 of the Constitution shall be listed with the property valuation administrator in the same manner and at the same time as taxable real property. The property valuation administrator shall maintain an inventory record of the tax-exempt property, but the property shall not be placed on the tax rolls. A copy of this tax-exempt inventory shall be filed annually with the *department*~~[cabinet]~~ within thirty (30) days of the close of the listing period. This inventory shall be in the form prescribed by the *department*~~[cabinet]~~. The *department*~~[cabinet]~~ shall make an annual report itemizing all exempt properties to the Governor and the Legislative Research Commission within sixty (60) days of the close of the listing period.

(7) Each property valuation administrator, under the direction of the *department*~~[cabinet]~~, shall review annually all real property listed with him under subsection (6) of this section and claimed to be exempt from taxation by Section 170 of the Constitution. The property valuation administrator shall place on the tax rolls all property that is not exempt. Any property valuation administrator who fails to comply with this subsection shall be subject to the penalties prescribed in KRS 132.990(2).

Section 184. KRS 132.240 is amended to read as follows:

Individuals or corporations listing property for taxation with the property valuation administrator or the county board of supervisors shall reveal the face value of all intangibles listed, except cash or bank deposits, on the form prescribed by the *Department of* Revenue~~[Cabinet]~~ for listing intangible property. A reduction of fifty cents ($0.50) shall be made from the property valuation administrator's compensation for each list he accepts upon which there is an omission to reveal the face value of any intangible property listed, except cash or bank deposits.

Section 185. KRS 132.260 is amended to read as follows:

Every person providing rental space for the parking of mobile homes and recreational vehicles shall by February 1 of each year report the name of the owner and type and size of all mobile homes and recreational vehicles not registered in this state under KRS 186.655 on his premises on the prior January 1 to the property valuation administrator of the county in which the property is located. The report shall be made in accordance with forms prescribed by the *Department of* Revenue~~[Cabinet]~~ and shall be signed and verified by the chief officer or person in charge of the business. The property valuation administrator may make a personal inspection and investigation of the premises on which mobile homes and recreational vehicles are located, for the purpose of identifying and assessing such property. No person in charge of such premises shall refuse to permit the inspection and investigation.

Section 186. KRS 132.285 is amended to read as follows:

(1) Except as provided in subsection (3) of this section, any city may by ordinance elect to use the annual county assessment for property situated within such city as a basis of ad valorem tax levies ordered or approved by the legislative body of the city. Any city making such election shall notify the *Department of* Revenue~~[Cabinet]~~ and property valuation administrator prior to the next succeeding assessment to be used for city levies. In such event the assessment finally determined for county tax purposes shall serve as a basis of all city levies for the fiscal year commencing on or after the county assessment date. Each city which elects to use the county

assessment shall annually appropriate and pay each fiscal year to the office of the property valuation administrator for deputy and other authorized personnel allowance, supplies, maps and equipment, and other authorized expenses of the office one-half of one cent ($0.005) for each one hundred dollars ($100) of assessment; provided, that sums paid shall not be less than two hundred fifty dollars ($250), nor more than forty thousand dollars ($40,000) in a city having an assessment subject to city tax of less than two billion dollars ($2,000,000,000) or fifty thousand dollars ($50,000) in a city having an assessment subject to city tax of more than two billion dollars ($2,000,000,000). This allowance shall be based on the assessment as of the previous January 1. Each property valuation administrator shall file a claim with the city and the city shall order payment in an amount not to exceed the appropriation authorized by this section. The property valuation administrator shall be required to account for all moneys paid to his office by the city and any funds unexpended by the close of each fiscal year shall carry over to the next fiscal year. Notwithstanding any statutory provisions to the contrary, the assessment dates for such city shall conform to the corresponding dates for the county, and such city may by ordinance establish additional financial and tax procedures that will enable it effectively to adopt the county assessment. The legislative body of any city adopting the county assessment may fix the time for levying the city tax rate, fiscal year, due and delinquency dates for taxes and any other dates that will enable it effectively to adopt the county assessment, notwithstanding any statutory provisions to the contrary. Any such city may, by ordinance, abolish any office connected with city assessment and equalization; except that in the case of a city assessor who is elected by the qualified voters of the city, the office may not be abolished before the end of the term of such assessor. Any city which elects to use the county assessment shall have access to the assessment records as soon as completed and may obtain a copy of that portion of the records which represents the assessment of property within such city by additional payment of the cost thereof. Once any city elects to use the county assessment, such action cannot be revoked without notice to the *Department of* Revenue~~[Cabinet]~~ and the property valuation administrator six (6) months prior to the next date as of which property is assessed for state and county taxes.

(2) In the event any omitted property is assessed by the property valuation administrator as provided by KRS 132.310 such assessment shall be considered as part of the assessment adopted by the city according to subsection (1) of this section.

(3) For purposes of the levy and collection of ad valorem taxes on motor vehicles, cities shall use the assessment required to be made pursuant to KRS 132.487(5).

(4) Notwithstanding the provisions of subsection (1) of this section, each city which elects to use the county assessment for ad valorem taxes levied for 1996 or subsequent years, and which used the county assessment for ad valorem taxes levied for 1995, shall appropriate and pay to the office of the property valuation administrator for the purposes set out in subsection (1) of this section an amount equal to the amount paid to the office of the property valuation administrator in 1995, or the amount required by the provisions of subsection (1) of this section, whichever is greater.

Section 187. KRS 132.310 is amended to read as follows:

(1) Any person who has failed to list for taxation any property omitted from assessment, except such as is subject to assessment by the *Department of* Revenue~~[Cabinet]~~, may at any time list such property with the property valuation administrator. The property valuation administrator shall proceed to assess any omitted real property and shall within ten (10) days from the date the real property was listed notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4). The *Department of* Revenue~~[Cabinet]~~ shall assess any omitted personal property and provide notice to the taxpayer in the manner provided in KRS 131.110.

(2) The property valuation administrator may at any time list and assess any real property which may have been omitted from the regular assessment. Immediately upon listing and assessing omitted real property, the property valuation administrator shall notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4). If the property valuation administrator fails to assess any omitted real property, the *Department of* Revenue~~[Cabinet]~~ may initiate assessment and collection procedures under the same provisions it uses for omitted personal property.

(3) The notice to the taxpayer required by subsections (1) and (2) of this section shall specify a date and time at which the county board of assessment appeals will hear the taxpayer's protest of the omitted assessment. For purposes of hearing appeals from omitted assessments the county judge/executive shall notify the chairman of the board of assessment appeals of the date set for hearing and may authorize one (1) member of the board to

hear the appeal and issue a ruling of his decision on the assessment, which shall be appealable, to the Kentucky Board of Tax Appeals as provided by KRS 131.340(2).

(4) Any property voluntarily listed as omitted property for taxation under this section shall be subject to penalties provided in KRS 132.290(3). Omitted property listed for taxation under this section by the property valuation administrator shall be subject to the penalties provided in KRS 132.290(4).

Section 188. KRS 132.320 is amended to read as follows:

(1) Any person who has failed to list for taxation his intangible personal property or tangible personal property, in whole or in part, because he was not called upon by the property valuation administrator or for any other reason, may at any time list the property with the *department*~~[cabinet]~~ by reporting to the *department*~~[cabinet]~~ the full details and a correct description of the omitted property and its value. The *department*~~[cabinet]~~ may determine and fix the fair cash value, estimated at the price it would bring at a fair voluntary sale, of the property so reported and listed for taxation.

(2) Any person dissatisfied with or aggrieved by the finding or ruling of the *department*~~[cabinet]~~ may appeal the finding or ruling in the manner provided in KRS 131.110.

(3) The *department*~~[cabinet]~~ may promulgate administrative regulations, and develop forms for the listing and assessment of the property assessed or to be assessed for taxation. The tax assessed shall be paid to and collected by the *department*~~[cabinet]~~. Taxes collected by the *department*~~[cabinet]~~ on behalf of the county, school, and other local taxing districts shall be distributed to each district at least quarterly. From each distribution, the *department*~~[cabinet]~~ shall deduct a fee which represents an allocation of *department*~~[cabinet]~~ operating and overhead expenses incurred in assessing and collecting the omitted tax. The fee shall be determined by the *department*~~[cabinet]~~ and shall apply to all omitted taxes collected after December 31, 1997.

(4) All property assessed pursuant to this section shall be liable for the payment of the taxes, interest, and penalties provided by law for failure to list the property with the property valuation administrator or other assessment board, commission, or authority within the time and in the manner prescribed by law, except that if the taxpayer voluntarily lists property under this section the twenty percent (20%) penalty provided to be paid to the *department*~~[cabinet]~~ shall not apply, unless the taxpayer on an appeal from the action of the *department*~~[cabinet]~~ attempts to reduce the assessment and is unsuccessful.

(5) If after demand by the *department*~~[cabinet]~~, any taxpayer refuses to voluntarily list any intangible or tangible personal property omitted from assessment, the *department*~~[cabinet]~~ shall make an estimate of the fair cash value of the omitted intangible or tangible personal property from the information in its possession and assess the property for taxation and require payment of the taxes, penalties, and interest due to the state and local taxing districts from the person assessed. Notice of the assessment shall be mailed to the taxpayer or the taxpayer's agent. The finality and review of any assessment made pursuant to this section shall be governed by the provisions of KRS 131.110.

Section 189. KRS 132.330 is amended to read as follows:

The field agents, accountants and attorneys of the *Department of* Revenue~~[Cabinet]~~ shall cause to be listed for taxation all property omitted by the property valuation administrators, county board of assessment appeals, *department*~~[cabinet]~~ or any other assessing authority, for any year omitted. The agent, accountant or attorney proposing to have the property assessed shall file in the office of the county clerk of the county in which the property may be liable to assessment a statement containing a description and value of the property or corporate franchise proposed to be assessed, the name and place of residence of the owner, his agent or attorney, or person in possession of the property, if known, and the year the property was unassessed. The county clerk shall thereupon issue a summons against the owner, or person in possession of the property if the owner is unknown, to show cause within ten (10) days after the service of the summons, why the property or corporate franchise shall not be assessed at the value named in the statement filed. No decision shall be rendered against the alleged owner unless the statement filed contains a description of the property sought to be assessed that will enable the county judge/executive to identify it. The summons shall be executed by the sheriff by delivering a copy thereof to the owner, or if he is not in the county to his agent, attorney or person in possession of the property. If the property is real property, and the owner is known but is absent from the state and has no attorney or agent in this state and no one is in possession of the property, the summons shall be served by posting it in a conspicuous place upon the property; if the property consists of tangible personal property the summons shall be placed in a conspicuous place where the property is located. In the case of tangible and intangible personal property, where the owner and his place of residence are unknown and no one (1) has possession of the property, an action for assessment shall be instituted by filing the petition above mentioned and

procuring constructive service against the owner under the provisions of rules 4.05, 4.06, 4.07 and 4.08 of the Rules of Civil Procedure. In all of the above cases an attachment of the property omitted from assessment may be procured from the District Court against the owner, at the time of the institution of the action or thereafter, and without the execution of a bond by the Commonwealth or its relator, by the representative of the *Department of* Revenue~~[Cabinet]~~ making an affidavit that the property described in the petition is subject to state, county, school or other taxing district tax, and is unassessed for any taxable year.

Section 190. KRS 132.340 is amended to read as follows:

(1) Within ten (10) days after the summons has been served, or within thirty (30) days after the warning order against the defendant whose name and place of residence are unknown has been made, if it appears to the county judge/executive that the property is liable for taxation and has not been assessed, the county judge/executive shall enter an order fixing the value at the fair cash value estimated as required by law. The county judge/executive shall certify the assessment of the property and its value, together with such other facts as may be required by law or directed by the county judge/executive to appear in the order, to the *Department of* Revenue~~[Cabinet]~~ and to the sheriff of the county, together with the amount of penalty and cost of assessment, in order that the taxes due the state, county, school or any other taxing district may be collected, with the penalty and costs. If the property is not liable for taxes, the county judge/executive shall make an order to that effect. Either party may appeal from the decision of the county judge/executive to the Circuit Court, and then to the Court of Appeals as in other civil cases, except that no appeal bond shall be required where the appeal is by the *commissioner*~~[secretary]~~ of revenue acting as the relator.

(2) If the owner of the property fails to pay the tax assessed, interest, penalties and costs, the lien under the attachment may be enforced and a sufficiency of the property sold to pay the obligation to the state, county, school or other taxing district. All persons owning property that is assessed as herein provided shall, in addition to the taxes and interest from the time the taxes should have been paid, pay the costs of the proceedings and a penalty of twenty percent (20%) on the amount of the taxes due, except where the property was duly listed and the taxes paid thereon within the time prescribed by law, and except where some different penalty is expressly provided by law.

(3) The taxes, costs and penalties shall be collected and accounted for as other taxes and penalties are required to be collected, and by the same officers. The county clerk shall enter all such assessments in a book to be kept for that purpose, showing the date of the assessment, the name of the person against whom the assessment is made, the location and description of the property assessed, and the value thereof. The officer collecting the taxes shall, when they are paid, notify the clerk of the payment, and the payment shall be noted by the clerk opposite the entry of the assessment.

Section 191. KRS 132.350 is amended to read as follows:

The county clerk shall, upon the filing of a statement by an agent, accountant or attorney of the *Department of* Revenue~~[Cabinet]~~ for the assessment of omitted property, enter the name of the person signing the statement as attorney for the *department*~~[cabinet]~~, and enter the name of the county attorney as attorney for the state, county, school and other taxing districts for which the *commissioner*~~[secretary]~~ of revenue is authorized to act as relator in such proceeding. The county attorney shall appear and prosecute or assist in the prosecuting of the proceeding in all the courts to which it may be taken for trial. If there is a judgment assessing the property for taxation, the judgment in each case shall recite whether or not the county attorney was present and assisted in the trial of the proceeding. When he is present and assists in the proceeding he shall be allowed as compensation for his services ten percent (10%) of the amount of state and county taxes assessed and collected pursuant to the judgment. The state and county shall be liable respectively for the payment only of the percentage allowance of compensation to the county attorney on the amount that each collects, and this shall be paid to the county attorney within thirty (30) days after the collection of the taxes, and charged against the fund to which the tax was credited.

Section 192. KRS 132.360 is amended to read as follows:

(1) Any assessment of accounts receivable, notes, or bonds or other intangible or tangible personal property that were listed with the property valuation administrator or with the *Department of* Revenue~~[Cabinet]~~ as provided by KRS 132.220 may be reopened by the *Department of* Revenue~~[Cabinet]~~ within five (5) years after the due date of the return, unless the assessed value thereof is the face value in the case of accounts receivable and notes or the quoted value in the case of bonds, or has been established by a court of competent jurisdiction. If upon reopening the assessment the *department*~~[cabinet]~~ finds that the assessment was less than the fair cash value and should be increased, it shall give notice thereof to the taxpayer, who may within forty-five (45) days thereafter protest to the *department*~~[cabinet]~~ and offer evidence to show that no increase should be made. After

the *department*~~[cabinet]~~ has disposed of the protest, the taxpayer may appeal from any such additional assessment as provided by KRS 131.110 and 131.340.

(2) Upon such assessment becoming final the *department*~~[cabinet]~~ shall certify the amount due to the taxpayer. The tax bill shall be handled and collected as an omitted tax bill, and the additional tax shall be subject to the same penalties and interest as the tax on omitted property voluntarily listed.

Section 193. KRS 132.370 is amended to read as follows:

(1) There shall be a property valuation administrator in each county in lieu of a county assessor. Property valuation administrators shall be state officials and all deputies and assistants of their offices shall be unclassified state employees.

(2) Property valuation administrators shall be elected in the year in which county elections are held and shall enter upon the discharge of the duties of their office on the first Monday in December after their election and continue in office for a period of four (4) years, and until the election and qualification of their successors. Property valuation administrators shall possess the qualifications required by Section 100 of the Constitution and by KRS 132.380 and shall be eligible for reelection.

(3) The property valuation administrators and all deputies and assistants of their offices who qualify as full-time employees shall be eligible for participation in the provisions of KRS 18A.205, 18A.230 to 18A.355, and 61.510 to 61.705.

(4) A property valuation administrator may be removed from office by the Circuit Court of his county, upon petition of any taxpayer, or by the *commissioner*~~[secretary]~~ of revenue for any of the following grounds: willful disobedience of any just or legal order of the *department*~~[cabinet]~~, or for misfeasance or malfeasance in office or willful neglect in the discharge of his official duties, including but not limited to intentional underassessment or overassessment of properties and chronic underassessment of properties. For purposes of this section and KRS 134.385, "chronic underassessment" shall mean a widespread pattern and practice of assessing properties at levels substantially below fair market value which persists for a period of two (2) or more years as disclosed by randomly selected sample appraisals conducted under the provisions of KRS 133.250, special audits conducted pursuant to KRS 134.385, or other means.

(5) If the *commissioner*~~[secretary]~~ determines that a property valuation administrator should be removed from office, the property valuation administrator shall be notified in writing, and the notice of intent to remove shall state the specific reasons for removal. The notice shall also advise the property valuation administrator of his right to a preremoval conference and an administrative hearing.

(6) A property valuation administrator may request a preremoval conference to appear with or without counsel before the *commissioner*~~[secretary]~~ or his designee to answer the charges against him. The preremoval conference shall be requested in writing within six (6) working days of the date on which the notice of intent to remove is received, and a preremoval conference shall be scheduled within seven (7) working days of the date on which the request is received. The *commissioner*~~[secretary]~~ or his designee shall render a decision within five (5) working days of the conclusion of the preremoval conference. Failure of a property valuation administrator to request a preremoval hearing shall not waive his right to contest his removal through an administrative hearing.

(7) If an action to remove a property valuation administrator is initiated by the *commissioner*~~[secretary]~~ of revenue, the property valuation administrator shall have the right to appeal and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B. Appeal of the final order of the *commissioner*~~[secretary]~~ of revenue may be filed in a Circuit Court of an adjacent judicial circuit in accordance with KRS Chapter 13B, notwithstanding the provisions of KRS Chapter 18A.

(8) If a property valuation administrator is removed from office as provided in subsections (4) to (7) of this section, he shall be ineligible to serve in the office at any future date and shall forfeit any and all certification from the *Department of* Revenue~~[Cabinet]~~ pertaining to the office.

(9) Notwithstanding the provisions of KRS 18A.110(5)(c), the *department*~~[cabinet]~~ shall promulgate administrative regulations allowing property valuation administrators and their deputies to receive lump-sum payments for accrued annual leave and compensatory time when separated from employment because of termination by the employer, resignation, retirement, or death.

Section 194. KRS 132.375 is amended to read as follows:

Whenever a vacancy occurs in the property valuation administrator's office, the *commissioner*~~[secretary]~~ of revenue shall designate a qualified *department*~~[cabinet]~~ employee to carry on the duties of the office until the vacancy is filled by appointment or by election. The *department*~~[cabinet]~~ employee so designated shall be compensated from *Department of* Revenue~~[Cabinet]~~ funds in the same manner and at the same rate as compensated prior to his receiving the designation, plus necessary expenses, including travel. The individual shall have all the powers and be subject to all the administrative regulations applying to property valuation administrators.

Section 195. KRS 132.380 is amended to read as follows:

(1) Before any person's name shall appear before the voters on election day as a candidate for the office of property valuation administrator in any primary or general election, except as a candidate to succeed himself in office, or before he may be appointed property valuation administrator, except as an interim appointee as provided by KRS 132.375, he shall hold a certificate issued by the *Department of* Revenue~~[Cabinet]~~, showing that he has been examined by it and that he is qualified for the office. All certificates issued shall expire one (1) year from the date of issuance, except for the certificates issued to successful candidates of the 1997 exam. Those certificates shall remain valid until after the November, 1998 election. The examinations shall be written and formulated so as to test fairly the ability and fitness of the applicant to serve as property valuation administrator. The *Department of* Revenue~~[Cabinet]~~ shall hold the examinations in at least one (1) place in each Supreme Court district during the month of November of each year immediately preceding each year in which property valuation administrators are to be elected. The *Department of* Revenue~~[Cabinet]~~ shall advise each county attorney of the time and place of the examination, and the county attorney shall post a notice thereof in a conspicuous place in the courthouse two (2) weeks before the examination is given. Any person desiring to take an examination shall appear at the time and place designated.

(2) If, after the giving of the examination, as provided in subsection (1), there is only one (1) person qualified to be a candidate in the county, the *Department of* Revenue~~[Cabinet]~~ shall hold a second examination prior to the filing date in each Supreme Court district where necessary. Applicants from only those counties having not more than one (1) person qualified shall be eligible to take the examination. Notice of the second examination shall be posted in the manner provided in subsection (1).

(3) Whenever there is a vacancy in the office of property valuation administrator to be filled by appointment or by election, and there is not more than one (1) person holding a valid certificate and eligible for appointment or election, the *Department of* Revenue~~[Cabinet]~~ may hold a special examination for applicants seeking a certificate for the office. If, after the giving of a special examination, only one (1) person is qualified, the county judge/executive may request a second examination. Special examinations shall be held in the same manner as regular examinations.

(4) Examinations shall be given and graded in accordance with rules of the *department*~~[cabinet]~~ published at the time of the examination. Within ten (10) days after the examination, a certificate of fitness and qualification to fill the office of property valuation administrator shall be issued by the *Department of* Revenue~~[Cabinet]~~ to each person passing the examination.

(5) Examination records shall be preserved by the *department*~~[cabinet]~~ for twelve (12) months after the examination, and the record of any person who took the examination may be seen by him at the office of the *Department of* Revenue~~[Cabinet]~~ in Frankfort, Kentucky.

Section 196. KRS 132.385 is amended to read as follows:

(1) The *department*~~[cabinet]~~ shall develop and administer a program for the purpose of providing education and training in the technical, legal, and administrative aspects of property tax administration for property valuation administrators, deputy property valuation administrators, and *department*~~[cabinet]~~ employees. Courses may be created and taught by *department*~~[cabinet]~~ personnel or the *department*~~[cabinet]~~ may adopt specific courses offered by appropriate professional organizations.

(2) The *department*~~[cabinet]~~ shall develop and administer, in cooperation with the property valuation administrators, a certification program for property valuation administrators, deputy property valuation administrators, and *department*~~[cabinet]~~ employees. A professional designation, "certified Kentucky assessor" (CKA), shall be awarded to those individuals successfully meeting the standards established by this program. Minimum requirements shall include one hundred twenty (120) hours of classroom instruction, passage of subject matter examinations, and three (3) years of experience in Kentucky property tax administration. An advanced designation, "senior Kentucky assessor" (SKA), shall be awarded to those individuals successfully completing an additional ninety (90) hours of classroom instruction, passage of subject matter examinations,

and an additional two (2) years of experience in Kentucky property tax administration. Correspondence course credit administered by the *department*~~[cabinet]~~ may be substituted for no more than thirty (30) hours of the one hundred twenty (120) hours required for the "certified Kentucky assessor" (CKA) designation, and for no more than fifteen (15) hours of the additional ninety (90) hours required for the "senior Kentucky assessor" (SKA) designation.

Section 197. KRS 132.400 is amended to read as follows:

Before entering upon the duties of office, the property valuation administrator shall execute a bond conditioned upon the faithful performance of the duties of the office with a surety to be approved by the *Department of* Revenue~~[Cabinet]~~. In counties containing a city of the first class or consolidated local government, the bond shall be in the sum of one hundred thousand dollars ($100,000); in counties containing a city of the second class, fifty thousand dollars ($50,000); in all other counties, twenty thousand dollars ($20,000).

Section 198. KRS 132.420 is amended to read as follows:

The property valuation administrator shall, subject to the direction, instruction, and supervision of the *Department of* Revenue~~[Cabinet]~~, make the assessment of all property in his county except as otherwise provided, prepare property assessment records, and have other powers and duties relating to assessment as may be prescribed by law or by the *department*~~[cabinet]~~.

Section 199. KRS 132.450 is amended to read as follows:

(1) Each property valuation administrator shall assess at its fair cash value all property which it is his duty to assess except as provided in paragraph (c) of subsection (2) of this section. In the case of securities which are regularly bought and sold through stock exchanges, the price at which such property closed on the last regular business day preceding the assessment day shall be prima facie evidence of the fair cash value of such property. The property of one (1) person shall not be assessed willfully or intentionally at a lower or higher relative value than the same class of property of another, and any grossly discriminatory valuation shall be construed as an intentional discrimination. The property valuation administrator shall make every effort, through visits with the taxpayer, personal inspection of the property, from records, from his own knowledge, from information in property schedules, and from such other evidence as he may be able to obtain, to locate, identify, and assess property.

(2) (a) In determining the total area of land devoted to agricultural or horticultural use, there shall be included the area of all land under farm buildings, greenhouses and like structures, lakes, ponds, streams, irrigation ditches and similar facilities, and garden plots devoted to growth of products for on-farm personal consumption but there shall be excluded, land used in connection with dwelling houses including, but not limited to, lawns, drives, flower gardens, swimming pools, or other areas devoted to family recreation. Where contiguous land in agricultural or horticultural use in one (1) ownership is located in more than one (1) county or taxing district, compliance with the minimum requirements shall be determined on the basis of the total area of such land and not the area of land which is located in the particular county or taxing district.

(b) Land devoted to agricultural or horticultural use, where the owner or owners have petitioned for, and been granted, a zoning classification other than for agricultural or horticultural purposes qualifies for the agricultural or horticultural assessment until such time as the land changes from agricultural or horticultural use to the use granted by the zoning classification.

(c) When the use of a part of a tract of land which is assessed as agricultural or horticultural land is changed either by conveyance or other action of the owner, the right of the remaining land to be retained in the agricultural or horticultural assessment shall not be impaired provided it meets the minimum requirements, except the minimum ten (10) contiguous acre requirement shall not be applicable if any portion of the agricultural or horticultural land has been acquired for a public purpose as long as the remaining land continues to meet the other requirements of this section.

(d) When in the opinion of the property valuation administrator any land has a value in excess of that for agricultural or horticultural use the property valuation administrator shall enter into the tax records the value of the property according to its fair cash value. When the property valuation administrator determines that the land meets the requirements for valuation as agricultural or horticultural land, the valuation for tax purposes shall be its agricultural or horticultural value.

(3) When land which has been valued and taxed as agricultural land for five (5) or more consecutive years under the same ownership fails to qualify for the classification through no other action on the part of the owner or owners other than ceasing to farm the land, the land shall retain its agricultural classification for assessment and taxation purposes. Classification as agricultural land shall expire upon change of use by the owner or owners or upon conveyance of the property to a person other than a surviving spouse.

(4) If the property valuation administrator assesses any property, except stocks and bonds at the market value listed in recognized publications, at a greater value than that listed by the taxpayer or assesses unlisted property, the property valuation administrator shall serve notice on the taxpayer of such action. The notice shall be given by first-class mail or as provided in the Kentucky Rules of Civil Procedure.

(5) Any taxpayer may designate on the property schedule any property which he does not consider to be subject to taxation, and it shall be the duty of the property valuation administrator to obtain and follow advice from the *department*~~[cabinet]~~ relative to the taxability of such property.

Section 200. KRS 132.460 is amended to read as follows:

The property valuation administrator, or an authorized deputy, shall attend all hearings before the county board of assessment appeals and before the Kentucky Board of Tax Appeals relative to his assessment and submit to examination and fully disclose to them such information as he may have and any other matters pertinent to the inquiry being made. He shall be entitled to reimbursement from the county for expenses incurred in official business outside his county. If the *Department of* Revenue~~[Cabinet]~~ directs him to perform official duties outside of his county, the expenses shall be paid from the appropriation for the payment of the salaries of the property valuation administrators. Such reimbursement shall be paid on the same basis as employees of the Commonwealth are paid for travel expenses.

Section 201. KRS 132.485 is amended to read as follows:

(1) (a) The registration of a motor vehicle with a county clerk in order to operate it or permit it to be operated upon the highways of the state shall be deemed consent by the registrant for the motor vehicle to be assessed by the property valuation administrator from a standard manual prescribed by the *Department of* Revenue~~[Cabinet]~~ for valuing motor vehicles for assessment unless the registrant appears before the property valuation administrator to assess the vehicle. The standard value of motor vehicles shall be the average trade-in value prescribed by the valuation manual unless information is available that warrants any deviation from the standard value.

(b) The registration of a recreational vehicle with the county clerk in order to operate it or permit it to be operated upon the highways shall be deemed consent by the registrant thereof for the recreational vehicle to be assessed by the property valuation administrator at a valuation determined from a standard manual prescribed by the *Department of* Revenue~~[Cabinet]~~ for valuing recreational vehicles for assessment unless the registrant appears in person before the property valuation administrator to assess the vehicle.

(2) The registration of a motor vehicle on or before the date that the registration of the vehicle is required is prima facie evidence of ownership on January 1.

(3) This section does not apply to motor vehicles or recreational vehicles owned and operated by public service companies, common carriers, or agencies of the state and federal governments.

Section 202. KRS 132.486 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~ shall develop and administer a centralized ad valorem assessment system for intangible personal property and tangible personal property. This system shall be designed to provide on-line computer terminals and accessory equipment in every property valuation administrator's office in the state in order to create and maintain a centralized personal property tax roll database.

(2) State income tax returns and return preparation instructions shall be revised to facilitate the preparation of the personal property tax return; however, the personal property tax return shall be a separate document and shall be listed with the property valuation administrator in the county of taxable situs according to the provisions of KRS 132.220(1) or with the *Department of* Revenue~~[Cabinet]~~. The *Department of* Revenue~~[Cabinet]~~ shall promulgate administrative regulations and develop forms for the listing and assessment of personal property.

(3) Appeals of personal property assessments shall not be made to the county board of assessment appeals. Personal property taxpayers shall be served notice under the provisions of KRS 132.450(4) and shall have the protest and appeal rights granted under the provision of KRS 131.110.

(4) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in a protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

Section 203. KRS 132.487 is amended to read as follows:

(1) The *department*~~[cabinet]~~ shall develop and administer a centralized ad valorem tax system for all motor vehicles as defined in KRS 186.010. This system shall be designed to allow the collection of state, county, city, urban-county government, school, and special taxing district ad valorem taxes due on each motor vehicle at the time of registration of the motor vehicle by the party charged with issuing the registration. The *department*~~[cabinet]~~ shall supervise and instruct the property valuation administrators and other officials with respect to their duties in relation to this system.

(2) Except as otherwise provided by law, the tax rate levied by the state, counties, schools, cities, and special tax districts on motor vehicles shall not exceed the rate that could have been levied on motor vehicles by the district on the January 1, 1983 assessments. All counties, schools, cities, and special taxing districts proposing to levy an ad valorem tax on motor vehicles shall submit to the *department*~~[cabinet]~~ on or before October 1 of the year preceding the assessment date, the tax rate to be levied against valuations as of that assessment date. Any district that fails to timely submit the tax rate shall receive the rate in effect for the prior year.

(3) The compensating tax rate and maximum possible tax rate allowable for counties, schools, cities, and special taxing districts on property other than motor vehicles for the 1984 and subsequent tax periods shall be calculated excluding all valuations of and tax revenues from motor vehicles from the base amounts used in arriving at these general rates.

(4) The Transportation Cabinet shall provide access to all records of motor vehicle registrations to the *department*~~[cabinet]~~ and the property valuation administrators as necessary to prepare and maintain a complete tax roll of motor vehicles throughout each year.

(5) The property valuation administrator shall, subject to the direction, instruction, and supervision of the *department*~~[cabinet]~~, have responsibility for assessing all motor vehicles other than those assessed under KRS Chapter 136 as part of public service companies. The *department*~~[cabinet]~~ may provide standard valuation guidelines for use in valuation of motor vehicles.

(6) The property valuation administrator shall provide to the *department*~~[cabinet]~~ by December 1 of each year a recapitulation of motor vehicles to be assessed as of January 1 of the next year.

(7) Procedures for protest, appeal, and correction of erroneous assessments shall be the same for motor vehicles as for other properties subject to ad valorem taxes.

Section 204. KRS 132.490 is amended to read as follows:

(1) Each county clerk shall, by March 1 of each year, unless the time is extended by the *Department of* Revenue~~[Cabinet]~~, make and certify to the various property valuation administrators complete statements of all purchase money notes, mortgage notes and other obligations for money due, except those owned by banks, trust companies or real estate title insurance companies, as shown by the conveyances, mortgages and liens in his office. The statements shall distinctly show the dates of execution and maturity of the notes or other evidences of indebtedness, the consideration, the date of filing or recording, the amount, and the county of the residence of the owner, payee, beneficial holder thereof or other person liable for taxes thereon.

(2) The statements shall be made to each property valuation administrator of the state as to the notes or other evidences of indebtedness owned or held by persons residing or having their principal place of business in the county of that property valuation administrator. Each statement shall cover a period of one (1) year next prior to January 1 of each year. The statements shall be sworn to by the clerk before some person authorized to administer oaths, as a complete statement of the facts.

(3) For his services in making these statements, the clerk shall be paid reasonable compensation by the fiscal court of his county.

Section 205. KRS 132.510 is amended to read as follows:

Every executor, administrator, guardian, conservator, trustee, trustee in bankruptcy, receiver or other person acting in a fiduciary capacity shall, when required, file with the *Department of* Revenue~~[cabinet]~~ a sworn inventory showing in detail the amount and character of personal property in his hands, unless the inventory has been filed as a public record in the court in which the fiduciary qualifies. The *department*~~[cabinet]~~ may examine the books and accounts of any person acting in a fiduciary capacity. No fiduciary shall receive a final discharge until he has satisfied the court settling his accounts that all taxes against the estate have been paid.

Section 206. KRS 132.520 is amended to read as follows:

(1) Every bank, trust company, combined bank and trust company, and real estate title insurance company doing business in this state shall, by February 1 of each year, unless the time is extended by the *Department of* Revenue~~[Cabinet]~~, file with the *department*~~[cabinet]~~ a report sworn to by its president, vice president, treasurer, or cashier, showing as of January 1 of each year:

(a) A list of the notes, bonds, or other evidences of indebtedness secured by mortgage or other recorded instrument standing in its name of record that it has assigned or transferred during the preceding year without making a transfer of record, the amount of each, and the name and address of the person to whom each was assigned. Where the name and address of the transferee holding the securities on January 1 of any year is given, any previous transfers of the securities during that year need not be furnished.

(b) A list of the mortgages standing in its name on January 1 that were assigned of record to it during the preceding year with its knowledge and consent, where it has not become the absolute owner of the debt secured thereby, showing the amount of each such mortgage and the name and address of each assignor. Any mortgage assigned to it during any year and paid and released of record prior to January 1 need not be included in the report.

(c) A list of all debenture bonds, collateral trust bonds, notes, certificates, and other evidences of indebtedness issued, assigned, or transferred by it during the preceding year that are secured by and represent the beneficial interest in lien notes, bonds, or mortgages standing in its name of record, the amount of each such evidence of indebtedness, and the name and address of the person to whom each was assigned or transferred. Where the name and address of the transferee holding the securities on January 1 of any year is given, any previous transfer or assignment of the securities need not be furnished.

(d) A list of all lien notes, bonds, mortgages, certificates, and other evidences of indebtedness that it has assigned or transferred to any person as security for the issuing of any debenture or collateral trust bonds, the amount of each, and the name and address of the person to whom each was assigned.

(2) The reports required under paragraphs (a) and (b) of subsection (1) of this section need not include sales or pledges from one (1) bank, trust company, or combined bank and trust company to another bank or company, or notes or obligations secured by any recorded instrument executed to a bank, trust company, or a combined bank and trust company in which the obligations secured by the instrument are divided among estates or accounts in charge of the bank or company and regularly and properly entered on its records. The provisions of this section do not apply to mortgages made by corporations to trustees to secure bond issues made by them in the regular course of business, except as provided in paragraph (c) of subsection (1) of this section.

(3) The information thus obtained shall be communicated by the *department*~~[cabinet]~~ to the property valuation administrator and the board of assessment appeals of the respective counties in which the true owners of the debts reside.

Section 207. KRS 132.550 is amended to read as follows:

(1) After the county clerk has completed the services required of him upon delivery of the tax rolls and schedules to him by the property valuation administrator, he shall then calculate the taxes due the state, county, school, county polls, and school polls, for each individual taxpayer, opposite their name in the tax rolls, upon the form prescribed by the *Department of* Revenue~~[Cabinet]~~. The rolls and forms shall be a permanent record of the county clerk's office.

(2) For performing the services required by this section the county clerk shall be paid the sum of fifteen cents ($0.15) for each tax list on the tax rolls, one-half (1/2) of this sum to be paid by the state, and the other one-half (1/2) to be paid by the county.

Section 208. KRS 132.570 is amended to read as follows:

(1) No person shall willfully make a false statement, or, to avoid taxation, make a temporary investment in securities exempt from taxation, or convert any intangible property into nontaxable property outside of this state, or resort to any device to evade taxation. Any person doing so shall be subject to three (3) times the amount of tax upon his property, to be recovered by the sheriff by action in the name of the Commonwealth in the county in which the property is liable for taxation, or by the *Department of* Revenue~~[Cabinet]~~, when the taxes are payable to it, in the Franklin Circuit Court.

(2) No person shall transfer or assign of record any mortgage note, bond or other evidence of indebtedness, secured by any recorded instrument, for the sole purpose of evading the taxes thereon.

Section 209. KRS 132.590 is amended to read as follows:

(1) The compensation of the property valuation administrator shall be based on the schedule contained in subsection (2) of this section as modified by subsection (3) of this section. The compensation of the property valuation administrator shall be calculated by the *Department of* Revenue~~[Cabinet]~~ annually. Should a property valuation administrator for any reason vacate the office in any year during his term of office, he shall be paid only for the calendar days actually served during the year.

(2) The salary schedule for property valuation administrators provides for nine (9) levels of salary based upon the population of the county in the prior year as determined by the United States Department of Commerce, Bureau of the Census annual estimates. To implement the salary schedule, the *department*~~[cabinet]~~ shall, by November 1 of each year, certify for each county the population group applicable to each county based on the most recent estimates of the United States Department of Commerce, Bureau of the Census. The salary schedule provides four (4) steps for yearly increments within each population group. Property valuation administrators shall be paid according to the first step within their population group for the first year or portion thereof they serve in office. Thereafter, each property valuation administrator, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. If the county population as certified by the *department*~~[cabinet]~~ increases to a new group level, the property valuation administrator's salary shall be computed from the new group level at the beginning of the next year. A change in group level shall have no affect on the annual change in step. Prior to assuming office, any person who has previously served as a property valuation administrator must certify to the *Department of* Revenue~~[Cabinet]~~ the total number of years, not to exceed four (4) years, that the person has previously served in the office. The *department*~~[cabinet]~~ shall place the person in the proper step based upon a formula of one (1) incremental step per full calendar year of service:

SALARY SCHEDULE

County Population by Group	Steps and Salary for Property Valuation Administrators			
Group I	Step 1	Step 2	Step 3	Step 4
0-4,999	$45,387	$46,762	$48,137	$49,513
Group II				
5,000-9,999	49,513	50,888	52,263	53,639
Group III				
10,000-19,999	53,639	55,014	56,389	57,765
Group IV				
20,000-29,999	55,702	57,765	59,828	61,891
Group V				
30,000-44,999	59,828	61,891	63,954	66,017
Group VI				
45,000-59,999	61,891	64,641	67,392	70,143
Group VII				
60,000-89,999	66,017	68,768	71,518	74,269

Group VIII				
90,000-499,999	68,080	71,518	74,957	78,395
Group IX				
500,000 and up	72,206	75,644	79,083	82,521

(3) (a) For calendar year 2000, the salary schedule in subsection (2) of this section shall be increased by the amount of increase in the annual consumer price index as published by the United States Department of Commerce for the year ended December 31, 1999. This salary adjustment shall take effect on July 14, 2000, and shall not be retroactive to the preceding January 1.

(b) For each calendar year beginning after December 31, 2000, upon publication of the annual consumer price index by the United States Department of Commerce, the annual rate of salary for the property valuation administrator shall be determined by applying the increase in the consumer price index to the salary in effect for the previous year. This salary determination shall be retroactive to the preceding January 1.

(c) In addition to the step increases based on service in office, each property valuation administrator shall be paid an annual incentive of six hundred eighty-seven dollars and sixty-seven cents ($687.67) per calendar year for each forty (40) hour training unit successfully completed based on continuing service in that office and, except as provided in this subsection, completion of at least forty (40) hours of approved training in each subsequent calendar year. If a property valuation administrator fails without good cause, as determined by the *commissioner*~~[secretary]~~ of the Kentucky *Department of* Revenue~~[Cabinet]~~, to obtain the minimum amount of approved training in any year, the officer shall lose all training incentives previously accumulated. No property valuation administrator shall receive more than one (1) training unit per calendar year nor more than four (4) incentive payments per calendar year. Each property valuation administrator shall be allowed to carry forward up to forty (40) hours of training credit into the following calendar year for the purpose of satisfying the minimum amount of training for that year. This amount shall be increased by the consumer price index adjustments prescribed in paragraphs (a) and (b) of this subsection. Each training unit shall be approved and certified by the Kentucky *Department of* Revenue~~[Cabinet]~~. Each unit shall be available to property valuation administrators in each office based on continuing service in that office. The Kentucky *Department of* Revenue~~[Cabinet]~~ shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish guidelines for the approval and certification of training units.

(4) Notwithstanding any provision contained in this section, no property valuation administrator holding office on July 14, 2000, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on July 14, 2000.

(5) Deputy property valuation administrators and other authorized personnel may be advanced one (1) step in grade upon completion of twelve (12) months' continuous service. The *Department of* Revenue~~[Cabinet]~~ may make grade classification changes corresponding to any approved for *department*~~[cabinet]~~ employees in comparable positions, so long as the changes do not violate the integrity of the classification system. Subject to availability of funds, the *department*~~[cabinet]~~ may extend cost-of-living increases approved for *department*~~[cabinet]~~ employees to deputy property valuation administrators and other authorized personnel, by advancement in grade.

(6) Beginning with the 1990-1992 biennium, the *Department of* Revenue~~[Cabinet]~~ shall prepare a biennial budget request for the staffing of property valuation administrators' offices. An equitable allocation of employee positions to each property valuation administrator's office in the state shall be made on the basis of comparative assessment work units. Assessment work units shall be determined from the most current objective information available from the United States Bureau of the Census and other similar sources of unbiased information. Beginning with the 1996-1998 biennium, assessment work units shall be based on parcel count per employee. The total sum allowed by the state to any property valuation administrator's office as compensation for deputies, other authorized personnel, and for other authorized expenditures shall not exceed the amount fixed by the *Department of* Revenue~~[Cabinet]~~. However, each property valuation administrator's office shall be allowed as a minimum such funds that are required to meet the federal minimum wage requirements for two (2) full-time deputies.

(7) Beginning with the 1990-1992 biennium each property valuation administrator shall submit by June 1 of each year for the following fiscal year to the *Department of* Revenue~~[Cabinet]~~ a budget request for his office which

shall be based upon the number of employee positions allocated to his office under subsection (6) of this section and upon the county and city funds available to his office and show the amount to be expended for deputy and other authorized personnel including employer's share of FICA and state retirement, and other authorized expenses of the office. The *Department of* Revenue~~[Cabinet]~~ shall return to each property valuation administrator, no later than July 1, an approved budget for the fiscal year.

(8) Each property valuation administrator may appoint any persons approved by the *Department of* Revenue~~[Cabinet]~~ to assist him in the discharge of his duties. Each deputy shall be more than twenty-one (21) years of age and may be removed at the pleasure of the property valuation administrator. The salaries of deputies and other authorized personnel shall be fixed by the property valuation administrator in accordance with the grade classification system established by the *Department of* Revenue~~[Cabinet]~~ and shall be subject to the approval of the *Department of* Revenue~~[Cabinet]~~. The Personnel Cabinet shall provide advice and technical assistance to the *Department of* Revenue~~[Cabinet]~~ in the revision and updating of the personnel classification system, which shall be equitable in all respects to the personnel classification systems maintained for other state employees. Any deputy property valuation administrator employed or promoted to a higher position may be examined by the *Department of* Revenue~~[Cabinet]~~ in accordance with standards of the Personnel Cabinet, for the position to which he is being appointed or promoted. No state funds available to any property valuation administrator's office as compensation for deputies and other authorized personnel or for other authorized expenditures shall be paid without authorization of the *Department of* Revenue~~[Cabinet]~~ prior to the employment by the property valuation administrator of deputies or other authorized personnel or the incurring of other authorized expenditures.

(9) Each county fiscal court shall annually appropriate and pay each fiscal year to the office of the property valuation administrator as its cost for use of the assessment, as required by KRS 132.280, an amount determined as follows:

Assessment Subject to County Tax of:		
At Least	But Less Than	Amount
----	$100,000,000	$0.005 for each $100 of the first $50,000,000 and $0.002 for each $100 over $50,000,000.
$100,000,000	150,000,000	$0.004 for each $100 of the first $100,000,000 and $0.002 for each $100 over $100,000,000.
150,000,000	300,000,000	$0.004 for each $100 of the first $150,000,000 and $0.003 for each $100 over $150,000,000.
300,000,000	----	$0.004 for each $100.

(10) The total sum to be paid by the fiscal court to any property valuation administrator's office under the provisions of subsection (9) of this section shall not exceed the limits set forth in the following table:

Assessed Value of Property Subject to County Tax of:		
At Least	But Less Than	Limit
----	$700,000,000	$25,000
$700,000,000	1,000,000,000	35,000
1,000,000,000	2,000,000,000	50,000
2,000,000,000	2,500,000,000	75,000
2,500,000,000	5,000,000,000	100,000

5,000,000,000	-----	175,000

This allowance shall be based on the assessment as of the previous January 1 and shall be used for deputy and other personnel allowance, supplies, maps and equipment, travel allowance for the property valuation administrator and his deputies and other authorized personnel, and other authorized expenses of the office.

(11) Annually, after appropriation by the county of funds required of it by subsection (9) of this section, and no later than August 1, the property valuation administrator shall file a claim with the county for that amount of the appropriation specified in his approved budget for compensation of deputies and assistants, including employer's shares of FICA and state retirement, for the fiscal year. The amount so requested shall be paid by the county into the State Treasury by September 1, or paid to the property valuation administrator and be submitted to the State Treasury by September 1. These funds shall be expended by the *Department of* Revenue~~[Cabinet]~~ only for compensation of approved deputies and assistants and the employer's share of FICA and state retirement in the appropriating county. Any funds paid into the State Treasury in accordance with this provision but unexpended by the close of the fiscal year for which they were appropriated shall be returned to the county from which they were received.

(12) After submission to the State Treasury or to the property valuation administrator of the county funds budgeted for personnel compensation under subsection (11) of this section, the fiscal court shall pay the remainder of the county appropriation to the office of the property valuation administrator on a quarterly basis. Four (4) equal payments shall be made on or before September 1, December 1, March 1, and June 1 respectively. Any unexpended county funds at the close of each fiscal year shall be retained by the property valuation administrator, except as provided in KRS 132.601(2). During county election years the property valuation administrator shall not expend in excess of forty percent (40%) of the allowances available to his office from county funds during the first five (5) months of the fiscal year in which the general election is held.

(13) The provisions of this section shall apply to urban-county governments and consolidated local governments. In an urban-county government and a consolidated local government, all the rights and obligations conferred on fiscal courts or consolidated local governments by the provisions of this section shall be exercised by the urban-county government or consolidated local government.

(14) When an urban-county form of government is established through merger of existing city and county governments as provided in KRS Chapter 67A or when a consolidated local government is established through merger of existing city and county governments as provided by KRS Chapter 67C, the annual county assessment shall be presumed to have been adopted as if the city had exercised the option to adopt as provided in KRS 132.285, and the annual amount to be appropriated to the property valuation administrator's office shall be the combined amount that is required of the county under this section and that required of the city under KRS 132.285, except that the total shall not exceed one hundred thousand dollars ($100,000) for any urban-county government or consolidated local government with an assessment subject to countywide tax of less than three billion dollars ($3,000,000,000), one hundred twenty-five thousand dollars ($125,000) for an urban-county government or consolidated local government with an assessment subject to countywide tax between three billion dollars ($3,000,000,000) and five billion dollars ($5,000,000,000), and two hundred thousand dollars ($200,000) for an urban-county government or consolidated local government with an assessment subject to countywide tax in excess of five billion dollars ($5,000,000,000). For purposes of this subsection, the amount to be considered as the assessment for purposes of KRS 132.285 shall be the amount subject to taxation for full urban services.

(15) Notwithstanding the provisions of subsection (9) of this section, the amount appropriated and paid by each county fiscal court to the office of the property valuation administrator for 1996 and subsequent years shall be equal to the amount paid to the office of the property valuation administrator for 1995, or the amount required by the provisions of subsections (9) and (10) of this section, whichever is greater.

Section 210. KRS 132.597 is amended to read as follows:

(1) The property valuation administrator of each county shall receive an annual expense allowance of three thousand six hundred dollars ($3,600) to be paid from the State Treasury in monthly installments of three hundred dollars ($300). Property valuation administrators shall not be required to keep records verifying expenditures from this expense allowance.

(2) The expense allowance provided in subsection (1) of this section shall be used by the property valuation administrator for expenses incurred in the performance of his duties. The allowance is to provide the necessary

funds for payment of all expenditures of the property valuation administrator not directly associated with the assessment of property in his particular county.

(3) Each property valuation administrator shall annually, within each calendar year, participate in a minimum of thirty (30) classroom hours of professional instruction conducted or approved by the *Department of* Revenue~~[Cabinet]~~. Any property valuation administrator failing to meet the *department's*~~[cabinet's]~~ requirements for any calendar year shall not receive the three thousand six hundred dollar ($3,600) annual expense allowance provided in subsection (1) of this section for the subsequent calendar year.

(4) The annual requirement for participation in classroom instruction shall be reduced to fifteen (15) hours for any property valuation administrator awarded the "senior Kentucky assessor" (SKA) professional designation under the provisions of KRS 132.385.

Section 211. KRS 132.601 is amended to read as follows:

(1) The property valuation administrator of any county may, after receiving an approved budget from the *Department of* Revenue~~[Cabinet]~~ under the provisions of KRS 132.590, obligate and spend any of the local funds accruing to his office under the provisions of KRS 132.590 or KRS 132.285, over and above that actually used in compensating his deputies and assistants, for the purchase of any maps, lists, charts, materials, supplies or equipment, or for other expenses necessary to the proper assessment of property or preparation and maintenance of assessment rolls and records.

(2) The property valuation administrator shall maintain a bank account for the management of local funds received by his office under the provisions of KRS 132.590 and 132.285. Beginning with the 1990-1992 biennium, at the end of each fiscal year a cumulative carryover of local funds equivalent to the total annual local appropriation for the ending fiscal year or five thousand dollars ($5,000), whichever is greater, shall be retained. Any funds in excess of this amount shall be refunded by the property valuation administrator no later than August 1 to the appropriating local governments in direct proportion to their respective appropriations.

(3) Expenditures made by the office of the property valuation administrator under the provisions of subsection (1) of this section shall be governed by procurement procedures adopted by the fiscal court in the county administrative code required by KRS 68.005. However, after approval of the annual budget for the office of the property valuation administrator provided in KRS 132.590 by the *Department of* Revenue~~[Cabinet]~~, the necessity of the expenditure shall not be questioned by the fiscal court. The *Department of* Revenue~~[Cabinet]~~ shall have neither authority nor responsibility in the auditing of expenditures made by the property valuation administrator from locally appropriated funds. The Auditor of Public Accounts shall assume the responsibility.

Section 212. KRS 132.605 is amended to read as follows:

(1) The fiscal court of each county shall have jurisdiction and the power to purchase and supply to the property valuation administrator any maps, lists, charts, materials, supplies, equipment or instruments which are reasonably necessary for a complete and accurate assessment of property in the county. The *Department of* Revenue~~[Cabinet]~~ is authorized to purchase and loan any property valuation administrator such maps, lists, charts, materials, supplies, equipment or instruments as are urgently needed by any property valuation administrator, provided that the *Department of* Revenue~~[Cabinet]~~ keeps a record thereof.

(2) The fiscal court of any county shall provide for the maintenance of all maps, lists, charts, materials, supplies, equipment or instruments owned by a county or supplied to it by the *Department of* Revenue~~[Cabinet]~~ or by any source in cooperation with the *Department of* Revenue~~[Cabinet]~~ for the purpose of facilitating the assessment of property.

Section 213. KRS 132.620 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~ shall recover from any property valuation administrator all compensation paid to him for assessments that were unauthorized or excessive when and to the extent it is determined by a final order of the board of assessment appeals, Kentucky Board of Tax Appeals, or a court of competent jurisdiction that such assessments were unauthorized or excessive. Whenever the property valuation administrator fails to render the services required of him or he performs any of his duties in such a manner as to fail to comply substantially with the requirements of the law, he shall be required to pay a sum that will reasonably compensate the Commonwealth of Kentucky for its costs in rendering the duties required to be performed by the property valuation administrator. The *Department of* Revenue~~[Cabinet]~~ shall notify the property valuation administrator by certified mail, return receipt requested, of any amount charged to be due under this section and a statement of the reasons therefor. The property valuation administrator shall be entitled

to a hearing before the Kentucky Board of Tax Appeals, and an appeal may be taken from the final action of the Kentucky Board of Tax Appeals to the courts as provided by law.

(2) Any sum that may become due from any property valuation administrator by reason of this section may be deducted from any amount that the Commonwealth of Kentucky may become obliged to pay such property valuation administrator, or it may be collected from the bondsman of the property valuation administrator.

Section 214. KRS 132.645 is amended to read as follows:

(1) The property valuation administrator of each county shall be paid from the State Treasury each month as provided in KRS 132.590.

(2) Deputies, other authorized personnel, and other authorized expenditures of the property valuation administrator's office shall be paid from the State Treasury monthly as approved by the *Department of* Revenue~~[Cabinet]~~ as provided in KRS 132.590 (2).

Section 215. KRS 132.645 is amended to read as follows:

(1) The property valuation administrator of each county shall be paid from the State Treasury each month as provided in KRS 132.590.

(2) Deputies, other authorized personnel, and other authorized expenditures of the property valuation administrator's office shall be paid from the State Treasury monthly as approved by the *Department of* Revenue~~[Cabinet]~~ as provided in KRS 132.590 (2).

Section 216. KRS 132.660 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~ shall have authority to order an emergency assessment of all or any part of the taxable property in any taxing district to be made by one (1) or more persons appointed for that purpose by the *department*~~[cabinet]~~, whenever: there has been no regular assessment; the records of an assessment have been destroyed, mutilated or lost; complaint is made by the owners of not less than ten percent (10%) in value of the taxable property in the taxing district; or investigation of the *department*~~[cabinet]~~ discloses that the assessment of property in such taxing district is so grossly inequitable or fiscally infeasible that an emergency exists. The order directing such emergency assessments shall state the reasons therefor and a copy shall be filed in the office of the county clerk where the property lies. Such order, when filed, shall void any assessment for the assessment year for which the emergency assessment is made. Any person appointed to make such an emergency assessment shall have the same powers and duties as the property valuation administrator. Whenever the tax roll has been completed under an emergency assessment and the tentative valuations have been determined, the *department*~~[cabinet]~~ shall cause to be published pursuant to KRS Chapter 424, a notice as to the date when the tax roll will be ready for inspection and the time available for such purpose; also a copy of the notice shall be posted at the courthouse door. If any property is assessed at a greater value than that listed by the taxpayer or unlisted property is assessed, the taxpayer shall be charged with notice of such action by reason of the inspection period, and no further notice need be given of such action taken before the beginning of the inspection period. At the close of the inspection period, the tax roll shall be delivered to the county clerk and the county judge/executive shall immediately convene the board of assessment appeals to hear and determine any appeals from such emergency assessment. The board shall remain in session for the time and shall receive the compensation as provided in KRS 133.030(3). Appeals shall be taken and heard from such emergency assessments in the same manner as appeals from regular assessments.

(2) The *department*~~[cabinet]~~ may appoint the property valuation administrator to make an emergency assessment provided he was not at fault, and if the property valuation administrator is so appointed he shall receive reasonable compensation for his services in making this assessment, which shall not affect in any manner the payment to him of any compensation that he has received for himself or on behalf of a deputy or that may be due him, for services in making the regular assessment. Whenever through the property valuation administrator's fault an emergency assessment is ordered, the property valuation administrator shall become liable for the cost thereof as provided in KRS 132.620, such cost to be limited to the amount due or paid him in accordance with the provisions of KRS 132.590.

Section 217. KRS 132.670 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~ shall prepare detailed maps identifying every parcel of real property within each county of the state. Each county shall furnish to the *department*~~[cabinet]~~ adequate facilities in the county courthouse in which to work. The *Department of* Revenue~~[Cabinet]~~ shall prescribe methods and specifications for the mapping of property. Personnel authorized to assist in making property identification

maps under this section may be given the same authority as a deputy property valuation administrator. Locally employed mapping project personnel shall be compensated in the same manner as deputies or assistants in the property valuation administrator's office.

(2) The *Department of* Revenue~~[Cabinet]~~ shall conduct a biennial review of the quality of maps and ownership records in each county. If, in the first review conducted under these provisions, the maps and records in any county fail to meet the minimum standards established by the *department*~~[cabinet]~~, the *department*~~[cabinet]~~ shall assume responsibility for remapping, revision, and updating under the provisions of subsection (1) of this section. Minimum maintenance standards to be followed by each property valuation administrator shall be established by the *department*~~[cabinet]~~.

Section 218. KRS 132.672 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~ is authorized to establish an account entitled the "mapping project account" which is a fund created within the restricted fund group set forth in KRS 45.305. The purpose of this account is to provide funds for the mapping project as set forth in KRS 132.670. This account shall not lapse.

(2) There is hereby authorized to be deposited into this account the balance of the money heretofore deposited in the "Kentucky Wastewater Revolving Fund" created pursuant to KRS 107.600, now repealed.

(3) The *commissioner*~~[secretary]~~ of revenue or any person duly authorized by him shall have the authority to withdraw from this account for the purpose set forth in subsection (1) of this section.

Section 219. KRS 132.690 is amended to read as follows:

(1) Each parcel of taxable real property or interest therein subject to assessment by the property valuation administrator shall be revalued during each year of each term of office by the property valuation administrator at its fair cash value in accordance with standards prescribed by the *Department of* Revenue~~[Cabinet]~~ and shall be physically examined no less than once every four (4) years by the property valuation administrator or his assessing personnel. In accordance with procedures prescribed by the *Department of* Revenue~~[Cabinet]~~, the property valuation administrator shall submit an assessment schedule to the *department*~~[cabinet]~~ and shall maintain a record of physical examination and revaluation for each parcel of real property which includes, in addition to other relevant information, the inspection dates.

(2) The right of any individual to appeal the assessment on his property in any year as provided in KRS 133.120 shall in no way be affected by this section.

(3) If the property valuation administrator fails to revalue property as required by this section, the *Department of* Revenue~~[Cabinet]~~ shall have the authority to order an emergency revaluation in the same manner as provided for emergency assessments by KRS 132.660. Any property valuation administrator willfully violating the provisions of subsection (1) of this section or who refuses to comply with the directions of the *Department of* Revenue~~[Cabinet]~~ to correct the assessment shall have his compensation suspended by the *department*~~[cabinet]~~ and shall be subject to removal from office as provided by KRS 132.370(4) and shall be subject to the provisions of KRS 132.620 and 61.120.

(4) Nothing in this section shall prohibit action by the *Department of* Revenue~~[Cabinet]~~ under the provisions of KRS 133.150 or 132.660 in any year in which the *department*~~[cabinet]~~ determines such action to be necessary.

Section 220. KRS 132.810 is amended to read as follows:

(1) To qualify under the homestead exemption provision of the Constitution, each person claiming the exemption shall file an application with the property valuation administrator of the county in which the applicant resides, on forms prescribed by the *Department of* Revenue~~[Cabinet]~~. The assessed value of property on which homestead exemption is claimed shall not be increased because of valuation expressed on the application form filed with the property valuation administrator, and whenever it becomes known that the valuation of property subject to the homestead tax exemption has been increased because of valuation expressed on the application form, adjustment shall be made the following year so that the total tax paid by the taxpayer is the same as if the increase had not been made.

(2) (a) Every person filing an application for exemption under the homestead exemption provision must be sixty-five (65) years of age or older during the year for which application is made or must have been classified as totally disabled under a program authorized or administered by an agency of the United States government or by any retirement system either within or without the Commonwealth of Kentucky on January 1 of the year in which application is made.

(b) Every person filing an application for exemption under the homestead exemption provision must own and maintain the property for which the exemption is sought as his personal residence.

(c) Every person filing an application for exemption under the disability provision of the homestead exemption must have received disability payments pursuant to the disability and must maintain the disability classification for the entirety of the particular taxation period.

(d) Every person filing for the homestead exemption who is totally disabled and is less than sixty-five (65) years of age must apply for the homestead exemption on an annual basis.

(e) Only one (1) exemption per residential unit shall be allowed even though the resident may be sixty-five (65) years of age and also totally disabled, and regardless of the number of residents sixty-five (65) years of age or older occupying the unit, but the sixty-five hundred dollars ($6,500) exemption shall be construed to mean sixty-five hundred dollars ($6,500) in terms of the purchasing power of the dollar in 1972. Every two (2) years thereafter, if the cost of living index of the United States Department of Labor has changed as much as one percent (1%), the maximum exemption shall be adjusted accordingly.

(f) The real property 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. The exemption shall apply only to the value of the real property assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which his interest in the corporation bears to the assessed value of the property.

(g) A mobile home, recreational vehicle, when classified as real property as provided for in KRS 132.751, or a manufactured house shall qualify as a residential unit for purposes of the homestead exemption provision.

(h) When title to property which is exempted, either in whole or in part, under the homestead exemption is transferred, the owner, administrator, executor, trustee, guardian, conservator, curator, or agent shall report such transfer to the property valuation administrator.

(3) Notwithstanding any statutory provisions to the contrary, the provisions of this section shall apply to the assessment and taxation of property under the homestead exemption provision for state, county, city, or special district purposes.

(4) The provisions of this section shall become effective with the 1982 taxable year and persons eligible for a homestead exemption under this section, who have not previously filed under the age provision of the homestead exemption, shall file applications by December 31 of the taxation period.

(a) The homestead exemption for disabled persons shall terminate whenever those persons no longer meet the total disability classification at the end of the taxation period for which the homestead exemption has been granted. In no case shall the exemption be prorated for persons who maintained the total disability classification at the end of the taxation period.

(b) Any totally disabled person granted the homestead exemption under the disability provision shall report any change in disability classification to the property valuation administrator in the county in which the homestead exemption is authorized.

(c) Any person making application and qualifying for the homestead exemption before payment of his property tax bills for the year in question shall be entitled to a full or partial exoneration, as the case may be, of the property tax due to reflect the taxable assessment after allowance for the homestead exemption.

(d) Any person making application and qualifying for the homestead exemption after property tax bills have been paid shall be entitled to a refund of the property taxes applicable to the value of the homestead exemption.

(5) In this section, "taxation period" means the period from January 1 through December 31 of the year in which application is made, unless the person maintaining the classification dies before December 31, in which case "taxation period" means the period from January 1 to the date of death.

Section 221. KRS 132.815 is amended to read as follows:

(1) Each electrical inspector certified under KRS 227.489 shall submit a monthly report to the *Department of* Revenue~~[Cabinet]~~ showing the names and addresses of all persons, firms, or corporations for which inspections were conducted for new buildings, new or relocated mobile homes, and other new or relocated structures during the preceding month. Each building, mobile home, or other structure shall be identified by county and property address, or property location in those instances where the address is insufficient to reveal the physical location of the property.

(2) The information provided shall be used for the purpose of making and maintaining accurate assessment records. The *Department of* Revenue~~[Cabinet]~~ shall provide to each electrical inspector the necessary forms and instructions for filing the report required under subsection (1).

Section 222. KRS 132.820 is amended to read as follows:

(1) The *department*~~[cabinet]~~ shall value and assess unmined coal, oil, and gas reserves, and any other mineral or energy resources which are owned, leased, or otherwise controlled separately from the surface real property at no more than fair market value in place, considering all relevant circumstances. Unmined coal, oil, and gas reserves and other mineral or energy resources shall in all cases be valued and assessed by the *Department of* Revenue~~[Cabinet]~~ as a distinct interest in real property, separate and apart from the surface real estate unless:

(a) The unmined coal, oil and gas reserves, and other mineral or energy resources are owned in their entirety by the surface owner;

(b) The surface owner is neither engaged in the severance, extraction, processing, or leasing of mineral or other energy resources nor is he an affiliate of a person who engages in those activities; and

(c) The surface is being used by the surface owner primarily for the purpose of raising for sale agricultural crops, including planted and managed timberland, or livestock or poultry.

For purposes of this section, "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another individual, partnership, committee, association, corporation, or any other organization or group of persons.

(2) Each owner or lessee of property assessed under subsection (1) of this section shall annually, between January 1 and April 15, file a return with the *department*~~[cabinet]~~ in a form as the *department*~~[cabinet]~~ may prescribe. Other individuals or corporations having knowledge of the property defined in subsection (1) of this section gained through contracting, extracting, or similar means may also be required by the *department*~~[cabinet]~~ to file a return.

(3) Any property subject to assessment by the *department*~~[cabinet]~~ under subsection (1) of this section which has not been listed for taxation, for any year in which it is taxable, by April 15 of that year shall be omitted property.

(4) After the valuation of unmined minerals or other energy sources has been finally fixed by the *department*~~[cabinet]~~, the *department*~~[cabinet]~~ shall certify to the county clerk of each county the amount liable for county, city, or district taxation. The report shall be filed by the county clerk in his office, and shall be certified by the county clerk to the proper collecting officer of the county, city, or taxing district for collection.

(5) The notification, protest, and appeal of assessments under subsection (1) of this section shall be made pursuant to the provisions of KRS Chapter 131.

(6) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

(7) The collection of tax bills generated from the assessments made under subsection (1) of this section shall be made pursuant to the provisions of KRS Chapter 134.

Section 223. KRS 132.990 is amended to read as follows:

(1) Any person who willfully fails to supply the property valuation administrator or the *Department of* Revenue~~[Cabinet]~~ with a complete list of his property and such facts with regard thereto as may be required or who violates any of the provisions of KRS 132.570 shall be fined not more than five hundred dollars ($500).

(2) Any property valuation administrator who willfully fails or neglects to perform any duty legally imposed upon him shall be fined not more than five hundred dollars ($500) for each offense.

(3) Any county clerk who willfully fails or neglects to perform any duty required of him by KRS 132.480 or by KRS 132.490 shall be fined not more than fifty dollars ($50) for each offense.

(4) Any person who willfully falsifies application for exemption or who fails to notify the property valuation administrator of any changes in qualifying requirements under the provision of KRS 132.810 shall be fined not more than five hundred dollars ($500).

Section 224. KRS 133.010 is amended to read as follows:

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

(1) "Board" means the county board of assessment appeals.

(2) "*Department*~~[Cabinet]~~" means the *Department of* Revenue~~[Cabinet]~~.

(3) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(4) "Real property" includes all lands within this state and improvements thereon.

(5) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

Section 225. KRS 133.020 is amended to read as follows:

(1) The county board of assessment appeals shall be composed of reputable real property owners residing in the county at least five (5) years. The appointing authorities may appoint qualified property owners residing in adjacent counties when qualified members cannot be secured within the county. The board shall consist of three (3) members, one (1) to be appointed by the county judge/executive, one (1) to be appointed by the fiscal court, and one (1) to be appointed by the mayor of the city with the largest assessment using the county tax roll or appointed as otherwise provided by the comprehensive plan of an urban-county government. Beginning with the 1995 appeals, the mayor's appointment shall serve for four (4) years, the county judge/executive's appointment shall serve for three (3) years, and the fiscal court's appointment shall serve for two (2) years. Each person appointed thereafter shall serve for three (3) years. If no city in the county uses the county assessment, the county judge/executive shall appoint two (2) members. Board members appointed prior to July 14, 1994, shall be eligible for reappointment by the appointing authority if they meet the requirements of subsection (2) of this section. A board member who has served for a full term shall not be eligible for reappointment. However, he shall be eligible for appointment after a hiatus of three (3) years. If the number of appeals to the board of assessment appeals filed with the county clerk exceeds one hundred (100), temporary panels of the board may be appointed with approval of the *Department of* Revenue~~[Cabinet]~~. Each temporary panel shall consist of three (3) members having the same qualifications and appointed in the same manner as the board members. The number of additional panels shall not exceed one (1) for each one hundred (100) appeals in excess of the first one hundred (100). The county judge/executive shall designate one (1) of the members of the board of assessment appeals to serve as chairman of the board. If additional panels are appointed, as provided in this subsection, the chairman of the board of assessment appeals shall designate one (1) member of each additional panel as chairman of the panel. A majority of the board or of any panel may determine the action of the board or panel respectively and make decisions. Each panel of the board shall have the same powers and duties given the board by KRS 133.120, except the action of any panel shall be subject to review and final approval by the board.

(2) Each member of the board shall have extensive knowledge of real estate values, preferably in real estate appraisal, sales, management, financing, or construction. In counties with cities of the first, second, or third class, the member appointed by the mayor shall be a certified real estate appraiser unless the mayor provides sufficient proof to the *department*~~[cabinet]~~ of his inability to secure a certified real estate appraiser.

(3) The board shall be subject to call by the county judge/executive at any time prescribed by law.

(4) The members of the county board of assessment appeals, and any panel of the board, before undertaking their duties, shall take the following oath, to be administered by the county judge/executive: "You swear (affirm) that you will, to the best of your ability, discharge the duties required of you as a member of the county board of assessment appeals, and that you will fix at fair cash value all property assessments brought before you for review as prescribed by law."

(5) The *department*~~[cabinet]~~ shall prepare and furnish to each property valuation administrator guidelines and materials for an orientation and training program to be presented to the board by the property valuation administrator or his deputy each year.

(6) A board member shall produce evidence of his qualifications upon request of the *department*~~[cabinet]~~. A board member shall be replaced by the appointing authority upon proof of the member's failure to meet the qualifications of the position. Any vacancy on the board shall be filled by the appointing authority that appointed the member to be replaced. The appointee shall have the qualifications required by statute for the board member appointed by the particular appointing authority and shall hold office only to the end of the unexpired term of the member replaced.

(7) Members of the county board of assessment appeals, and any temporary panel, shall abstain from hearing or ruling on an appeal for any property in which they have any personal or private interests.

Section 226. KRS 133.030 is amended to read as follows:

(1) The county board of assessment appeals shall convene each year at the county seat no earlier than twenty-five (25) days and no later than thirty-five (35) days following the conclusion of the tax roll inspection period provided for in KRS 133.045; except that no meeting shall be held until the tax roll has been completed and the inspection period has been held as provided by law, or until revaluation of the property has been completed by the property valuation administrator at the direction of the *Department of* Revenue~~[Cabinet]~~ as provided by KRS 132.690 or by the *department*~~[cabinet]~~ itself as provided by KRS 133.150. All records of the property valuation administrator, including all data concerning property sales within the preceding year, shall be available to the board while meeting.

(2) The first regular meeting day of the board shall be devoted to the orientation and training program provided for in KRS 133.020(5), to a review of the assessment of the property valuation administrator and his deputies, and to a review of the appeals filed with the county clerk as clerk of the board, including a review of recent sales of comparable properties provided in accordance with the provisions of subsection (1) of this section, and an inspection of the properties involved in the appeals when in the opinion of the board such inspection will assist in the proper determination of fair cash value.

(3) The board of assessment appeals shall continue in session only such time as is necessary to hear appeals. The board shall not continue in session more than one (1) day, if there are no appeals to be heard, nor more than five (5) days after it convenes in each year, unless an extension of time is authorized by the *Department of* Revenue~~[Cabinet]~~ upon request of the county judge/executive. Each board member shall be paid one hundred dollars ($100) for each day he serves. This compensation shall be paid one-half (1/2) out of the county levy and the other half out of the State Treasury.

(4) Members of temporary panels of the board shall serve the time necessary for hearing appeals but in no case more than five (5) days except upon approval of an extension of time by the *Department of* Revenue~~[Cabinet]~~. Compensation of panel members shall be in the same manner and at the same rate as provided for members of the board.

Section 227. KRS 133.040 is amended to read as follows:

(1) The property valuation administrator shall complete the tax roll of all real property in his county before the first Monday in April of each year in accordance with law, and on or before that date he shall file with the *department*~~[cabinet]~~, on forms provided by the *department*~~[cabinet]~~, a recapitulation of all property assessed on the tax roll with his official certificate attached. The recapitulation shall show the assessment of property by type of property and by taxing district. Within fifteen (15) calendar days after receiving the recapitulation, the *department*~~[cabinet]~~ shall direct the property valuation administrator to make any changes that are necessary to correct the assessment. The *department*~~[cabinet]~~ shall preserve all recapitulations and schedules or a photographic facsimile for a period of seven (7) years from the assessment date.

(2) At the time the property valuation administrator submits his property recapitulations to the *department*~~[cabinet]~~, he shall submit a copy of the recapitulations to the county judge/executive, the treasurer or chief officer of each special district in the county, the chief administrative officer of the urban-county, and the superintendent of each local school district in his county.

(3) Beginning with the 1995 assessment year, if the property valuation administrator has not submitted an acceptable recapitulation to the *department*~~[cabinet]~~ by the first Monday in August, the *department*~~[cabinet]~~ shall, within fifteen (15) days, conduct an investigation into the reasons for the failure. The

department~~[cabinet]~~ shall notify the property valuation administrator in writing of his right to appear before the *commissioner*~~[secretary]~~ or his designee during the investigation to provide an explanation for the failure to submit an acceptable recapitulation. At any time after the completion of an investigation resulting in a finding that the failure to submit an acceptable recapitulation was not reasonably justified, the *department*~~[cabinet]~~ may declare an emergency assessment under the provisions of KRS 132.660.

(4) If the *commissioner*~~[secretary]~~ determines upon the conclusion of the investigation that the failure to submit an acceptable recapitulation was not reasonably justified, the *commissioner*~~[secretary]~~ shall notify the property valuation administrator in writing of the *department's*~~[cabinet's]~~ findings, and of the *department's*~~[cabinet's]~~ intent to suspend the property valuation administrator's compensation as of the date of the notification and until the date an acceptable recapitulation is submitted. The notification shall inform the property valuation administrator that the amount of compensation suspended under this subsection is subject to forfeiture as provided in subsection (5) of this section.

(5) The property valuation administrator may, within ten (10) days of the date of notice provided for in subsection (4) of this section, request in writing a formal administrative hearing before a *department*~~[cabinet]~~ hearing officer appointed by the *commissioner*~~[secretary]~~. All hearings shall be conducted in accordance with KRS Chapter 13B. If in the recommended order:

(a) The hearing officer determines, and the *commissioner*~~[secretary]~~ agrees, that the failure to submit an acceptable recapitulation was not reasonably justified, the *commissioner*~~[secretary]~~ shall reaffirm the notice of forfeiture provided for in subsection (4) of this section and issue a final order in writing to the property valuation administrator.

(b) The hearing officer determines, and the *commissioner*~~[secretary]~~ agrees, that the failure to submit an acceptable recapitulation was reasonably justified, the *commissioner*~~[secretary]~~ shall notify the property valuation administrator in a final order, and compensation suspended under subsection (4) of this section shall be paid with interest at the tax interest rate defined in KRS 131.010(6).

(6) If the property valuation administrator does not request in writing a formal administrative hearing within the time prescribed in subsection (5) of this section, the *commissioner*~~[secretary]~~ shall reaffirm the notice of forfeiture provided for in subsection (4) of this section and issue a final order in writing to the property valuation administrator.

(7) The property valuation administrator may appeal the *commissioner's*~~[secretary's]~~ final order in the same manner, and subject to the same provisions as set forth in KRS 132.370(7).

(8) A property valuation administrator who fails to submit an acceptable recapitulation, within the times prescribed in subsection (3) of this section and after a previous finding that a prior year's failure to submit an acceptable recapitulation was determined to not be reasonably justified, shall be subject to removal from office as provided by KRS 132.370(4).

Section 228. KRS 133.045 is amended to read as follows:

(1) The real property tax roll being prepared by the property valuation administrator for the current year, shall be open for inspection in the property valuation administrator's office for thirteen (13) days beginning on the first Monday in May of each year and shall be open for inspection for six (6) days each week, one (1) of which shall be Saturday. In case of necessity, the *department*~~[cabinet]~~ may order a reasonable extension of time for the inspection period of the tax roll or it may order that the inspection period be at a different time than that provided in this section. However, the final day of the inspection period shall not be Saturday, Sunday, or a legal holiday.

(2) The property valuation administrator shall cause to be published once during the week before the beginning of the inspection period, as provided in subsection (1) of this section, in a display type advertisement, the following information:

(a) The fact that the real property tax roll is open for public inspection;

(b) The dates of the inspection period;

(c) The times available for public review of the real property tax roll;

(d) The fact that any taxpayer desiring to appeal an assessment shall first request a conference with the property valuation administrator to be held prior to or during the inspection period; and

(e) Instructions which provide details on the manner in which a taxpayer who has had a conference with the property valuation administrator may file an appeal, if he is aggrieved by an assessment made by the property valuation administrator.

The cost of the notice shall be paid by the fiscal court of the county. The notice shall also be posted at the courthouse door. Failure to publish or post notices when the inspection period is at the regular time as provided in this section shall not invalidate assessments made by the property valuation administrator and recorded on the tax roll prior to the inspection period.

Section 229. KRS 133.047 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 61.870 to 61.884, when the *Department of* Revenue~~[Cabinet]~~ has completed action on the assessment of property in any county and has certified the assessment to the county clerk of that county, as provided for in KRS 133.180, the property tax roll, or a copy of the property tax roll, shall be retained in the office of the property valuation administrator for maintenance as an open public record for five (5) years. The property tax roll shall be available for public inspection during the regular working hours of the office of the property valuation administrator as provided for in KRS 132.410(2).

(2) Any person inspecting a property tax roll shall do so in a manner not unduly interfering with the proper operation of the custodian's office.

(3) Personal property tax returns, accompanying documents, and assessment records, with the exception of the certified personal property tax roll, shall be considered confidential under the provisions of KRS 131.190.

(4) Real property tax returns and accompanying documents submitted by a taxpayer shall be considered confidential under the provisions of KRS 131.190. Other real property records in the office of the property valuation administrator shall be subject to the provisions of KRS 61.870 to KRS 61.884. However, notwithstanding the provisions of KRS 61.874 the *Department of* Revenue~~[Cabinet]~~ shall develop and provide to each property valuation administrator a reasonable fee schedule to be used in compensating for the cost of personnel time expended in providing information and assistance to persons seeking information to be used for commercial or business purposes. Any person seeking information on his own property, or any other person, including the press, seeking information directly related to property tax assessment, appeals, equalization, requests for refunds, or similar matters shall not be subject to fees for personnel time.

(5) The *Department of* Revenue~~[Cabinet]~~ shall provide advice, guidelines, and assistance to each property valuation administrator in implementing the provisions of KRS 61.870 to 61.884.

Section 230. KRS 133.110 is amended to read as follows:

(1) After submission of the final real property recapitulation or certification of the personal property assessment, the property valuation administrator may correct clerical, mathematical, or procedural errors in an assessment or any duplication of assessment. Changes in assessed value based on appraisal methodology or opinion of value shall not be valid. All corrections shall be reviewed by the *Department of* Revenue~~[Cabinet]~~ and those changes determined by the *department*~~[cabinet]~~ to be invalid shall be rescinded. Any taxpayer affected by this rescission shall not be subject to additional penalties.

(2) Notwithstanding other statutory provisions, for property subject to a tax rate that is set each year based on the certified assessment, any loss of property tax revenue incurred by a taxing district due to corrections made after the tax rate has been set may be recovered by making an adjustment in the tax rate to be set for the next tax year.

Section 231. KRS 133.120 is amended to read as follows:

(1) Any taxpayer desiring to appeal an assessment on real property made by the property valuation administrator shall first request a conference with the property valuation administrator or his designated deputy. The conference shall be held prior to or during the inspection period provided for in KRS 133.045. Any person receiving compensation to represent a property owner at a conference with the property valuation administrator for a real property assessment shall be an attorney, a certified public accountant, a certified real estate broker, a Kentucky licensed real estate broker, an employee of the property owner, or any other individual possessing a professional appraisal designation recognized by the *department*~~[cabinet]~~. A person representing a property owner before the property valuation administrator shall present written authorization from the property owner which sets forth his professional capacity and shall disclose to the property valuation administrator any personal or private interests he may have in the matter, including any contingency fee arrangements. Provided however, attorneys shall not be required to disclose the terms and conditions of any contingency fee

arrangement. During this conference, the property valuation administrator or his deputy shall provide an explanation to the taxpayer of the constitutional and statutory provisions governing property tax administration, including the appeal process, as well as an explanation of the procedures followed in deriving the assessed value for the taxpayer's property. The property valuation administrator or his deputy shall keep a record of each conference which shall include, but shall not be limited to, the initial assessed value, the value claimed by the taxpayer, an explanation of any changes offered or agreed to by each party, and a brief account of the outcome of the conference. At the request of the taxpayer, the conference may be held by telephone.

(2) Any taxpayer still aggrieved by an assessment on real property made by the property valuation administrator after complying with the provisions of subsection (1) of this section may appeal to the board of assessment appeals. The taxpayer shall appeal his assessment by filing in person or sending a letter or other written petition stating the reasons for appeal, identifying the property for which the appeal is filed, and stating to the county clerk the taxpayer's opinion of the fair cash value of the property. The appeal shall be filed no later than one (1) workday following the conclusion of the inspection period provided for in KRS 133.045. The county clerk shall notify the *department*~~[cabinet]~~ of all assessment appeals and of the date and times of the hearings. The board of assessment appeals may review and change any assessment made by the property valuation administrator upon recommendation of the county judge/executive, mayor of any city using the county assessment, or the superintendent of any school district in which the property is located, if the recommendation is made to the board in writing specifying the individual properties recommended for review and is made no later than one (1) work day following the conclusion of the inspection period provided for in KRS 133.045, or upon the written recommendation of the *department*~~[cabinet]~~. If the board of assessment appeals determines that the assessment should be increased, it shall give the taxpayer notice in the manner required by subsection (4) of KRS 132.450, specifying a date when the board will hear the taxpayer, if he so desires, in protest of an increase. Any real property owner who has listed his property with the property valuation administrator at its fair cash value may ask the county board of assessment appeals to review the assessments of real properties he believes to be assessed at less than fair cash value, if he specifies in writing the individual properties for which the review is sought and factual information upon which his request is based, such as comparable sales or cost data and if the request is made no later than one (1) work day following the conclusion of the inspection period provided for in KRS 133.045. Nothing in this section shall be construed as granting any property owner the right to request a blanket review of properties or the board the power to conduct such a review.

(3) The board of assessment appeals shall hold a public hearing for each individual taxpayer appeal in protest of the assessment by the property valuation administrator filed in accordance with the provisions of subsection (2) of this section, and after hearing all the evidence, shall fix the assessment of the property at its fair cash value. The *department*~~[cabinet]~~ may be present at the hearing and present any pertinent evidence as it pertains to the appeal. The taxpayer shall provide factual evidence to support his appeal. If the taxpayer fails to provide reasonable information pertaining to the value of the property requested by the property valuation administrator, the *department*~~[cabinet]~~, or any member of the board, his appeal shall be denied. This information shall include, but shall not be limited to, the physical characteristics of land and improvements, insurance policies, cost of construction, real estate sales listings and contracts, income and expense statements for commercial property, and loans or mortgages. The board of assessment appeals shall only hear and consider evidence which has been submitted to it in the presence of both the property valuation administrator or his designated deputy and the taxpayer or his authorized representative.

(4) Any person receiving compensation to represent a property owner in an appeal before the board shall be an attorney, a certified public accountant, a certified real estate appraiser, a Kentucky licensed real estate broker, an employee of the taxpayer, or any other individual possessing a professional appraisal designation recognized by the *department*~~[cabinet]~~. A person representing a property owner before the county board of assessment appeals shall present a written authorization from the property owner which sets forth his professional capacity and shall disclose to the county board of assessment appeals any personal or private interests he may have in the matter, including any contingency fee arrangements. Provided however, attorneys shall not be required to disclose the terms and conditions of any contingency fee arrangement.

(5) The board shall provide a written opinion justifying its action for each assessment either decreased or increased in the record of its proceedings and orders required in KRS 133.125 on forms or in a format provided or approved by the *department*~~[cabinet]~~.

(6) The board shall report to the property valuation administrator any real property omitted from the tax roll. The property valuation administrator shall assess the property and immediately give notice to the taxpayer in the

manner required by KRS 132.450(4), specifying a date when the board of assessment appeals will hear the taxpayer, if he so desires, in protest of the action of the property valuation administrator.

(7) The board of assessment appeals shall have power to issue subpoenas, compel the attendance of witnesses, and adopt rules and regulations concerning the conduct of its business. Any member of the board shall have power to administer oaths to any witness in proceedings before the board.

(8) The powers of the board of assessment appeals shall be limited to those specifically granted by this section.

(9) No appeal shall delay the collection or payment of any taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which he claims as true value and stated in the petition of appeal filed in accordance with the provisions of subsection (1) of this section. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

(10) Any member of the county board of assessment appeals may be required to give evidence in support of the board's findings in any appeal from its actions to the Kentucky Board of Tax Appeals. Any persons aggrieved by a decision of the board, including the property valuation administrator, taxpayer, and *department*~~[cabinet]~~, may appeal the decision to the Kentucky Board of Tax Appeals. Any taxpayer failing to appeal to the county board of assessment appeals, or failing to appear before the board, either in person or by designated representative, shall not be eligible to appeal directly to the Kentucky Board of Tax Appeals.

(11) The county attorney shall represent the interest of the state and county in all hearings before the board of assessment appeals and on all appeals prosecuted from its decision. If the county attorney is unable to represent the state and county, he or the fiscal court shall arrange for substitute representation.

(12) Taxpayers shall have the right to make audio recordings of the hearing before the county board of assessment appeals. The property valuation administrator may make similar audio recordings only if prior written notice is given to the taxpayer. The taxpayer shall be entitled to a copy of the *department's*~~[cabinet's]~~ recording as provided in KRS 61.874.

(13) The county board of assessment appeals shall physically inspect a property upon the request of the property owner or property valuation administrator.

Section 232. KRS 133.123 is amended to read as follows:

When an appeal is taken from an assessment by the property valuation administrator, of property which the owner does not consider to be subject to taxation, it shall be the duty of the county board of assessment appeals to obtain and follow advice from the *Department of* Revenue~~[Cabinet]~~ relative to the taxability of such property; however, the board shall have full power and responsibility to make a determination of the fair cash value of such property.

Section 233. KRS 133.125 is amended to read as follows:

(1) No later than three (3) working days after the expiration of the inspection period provided for in KRS 133.045, the county clerk shall provide a copy to the property valuation administrator of each appeal petition and a summary of the appeals filed with the county board of assessment appeals. The summary shall be in a format, or on a form, provided or approved by the *Department of* Revenue~~[Cabinet]~~. The property valuation administrator shall, within three (3) working days of receipt of the summary, prepare and submit to the *Department of* Revenue~~[Cabinet]~~ a final recapitulation of the real property tax roll incorporating all changes made since the submission of the first recapitulation. Those properties under appeal shall be listed for recapitulation and certification purposes at the value claimed by the taxpayer. After submission of the final recapitulation to the *Department of* Revenue~~[Cabinet]~~, assessments shall not be amended except for adjustments ordered by the board and for corrections made under the provisions of KRS 133.110 and KRS 133.130.

(2) The county clerk, or an authorized deputy, shall act as clerk of the board of assessment appeals; and where additional board panels are appointed, as provided by law, one (1) authorized deputy shall act as clerk for each panel. An accurate record of the proceedings and orders of the board and of each of its authorized panels shall be kept and shall show the name of the owner of the property, the description, the type of property, the amount of the assessment the property valuation administrator placed on the property, and the amount of change made in the assessment by the board. A copy certified by the chairman of the board and attested by the county clerk shall be filed by the clerk with the property valuation administrator and with the *Department of* Revenue~~[Cabinet]~~ within five (5) days after the adjournment of the board.

(3) The county clerk shall certify to the county judge/executive the number of days during which the board was in session, and the court shall enter this fact of record along with the amount due the board members for their services. On a presentation of a copy of the order, the Finance and Administration Cabinet shall draw a warrant on the State Treasurer in favor of the board members and clerk for the amount due for their services.

(4) The county clerk and any authorized deputies serving as clerk of the board or a panel thereof shall be allowed the same compensation per day for their services as is allowed to members of the board of their county, and they shall be paid in the same manner as members of the board are paid. The county clerk and his authorized deputies shall be allowed compensation for completing and filing the record of the board in the same manner as allowed for their services while acting as clerk of the board or clerk of a panel of the board.

Section 234. KRS 133.130 is amended to read as follows:

(1) Any person claiming to be erroneously charged with any tax upon property not owned by him may, after he has received notice of the same by demand made upon him to pay the tax, offer evidence in support of the complaint to the property valuation administrator of the county in which the assessment was made. If the property valuation administrator finds that he was not the owner of the property assessed, he may correct the same by releasing him from the payment of the tax, and shall assess the property immediately against the rightful owner.

(2) A protest may be made to the *Department of* Revenue~~[Cabinet]~~ under the provisions of KRS 131.110 from any action of the property valuation administrator made under this section or under KRS 133.110.

Section 235. KRS 133.150 is amended to read as follows:

The *Department of* Revenue~~[Cabinet]~~ shall equalize each year the assessments of the property among the counties. It shall compare the recapitulation of the property valuation administrator's books from each county with the records of sales of land in such county or with such other information that it may obtain from any source and shall determine the ratio of the assessed valuation of the property to the fair cash value. The *Department of* Revenue~~[Cabinet]~~ shall have power to increase or decrease the aggregate assessed valuation of the property of any county or taxing district thereof or any class of property or any item in any class of property. The *Department of* Revenue~~[Cabinet]~~ shall fix the assessment of all property at its fair cash value. When the property in any county, or any class of property in any county, is not assessed at its fair cash value, such assessment shall be increased or decreased to its fair cash value by fixing the percentage of increase or decrease necessary to effect the equalization.

Section 236. KRS 133.160 is amended to read as follows:

When it is contemplated by the *Department of* Revenue~~[Cabinet]~~ that it will be necessary to raise the assessed valuation of property in any county, it shall give notice of the contemplated action to the county judge/executive, the superintendent of any school district affected by such action, the mayor of any city which is affected and which has adopted the assessment, and to the taxpayers of that county through the county judge/executive, who shall post the notice sent him on the courthouse door and certify to the *Department of* Revenue~~[Cabinet]~~ that this has been done, and it shall fix a time and place for a hearing which may be in Frankfort or any convenient place in or nearer the county seat.

Section 237. KRS 133.170 is amended to read as follows:

(1) When the *Department of* Revenue~~[Cabinet]~~ has completed its equalization of the assessment of the property in any county, it shall certify its action to the county judge/executive, with a copy of the certification for the county clerk, to be laid before the fiscal court of the county.

(2) If the fiscal court deems it proper to ask for a review of the aggregate equalization of any class or subclass of property, it shall direct the county attorney to prosecute an appeal of the aggregate increase to the Kentucky Board of Tax Appeals within ten (10) days from the date of the certification.

(3) Within ten (10) days from the date that the *department's*~~[cabinet's]~~ aggregate equalization of any or all classes or subclasses of property becomes final by failure of the fiscal court to prosecute an appeal or by order of the Kentucky Board of Tax Appeals or the courts, the fiscal court shall cause to be published, at least one (1) time, in the newspaper having the largest circulation within the county, a public notice of the *department's*~~[cabinet's]~~ action.

(4) Within ten (10) days from the date of the publication of the notice required in subsection (3) of this section, any individual taxpayer whose property assessment is increased above its fair cash value by the equalization action may file with the county clerk an application for exoneration of his property assessment from the

increase. The application shall be filed in duplicate and shall include the name and address of the person in whose name the property is assessed; the assessment of the property before the increase; the description and location of the property including the description shown on the tax roll; the property owner's reason for appeal; and all other pertinent facts having a bearing upon its value. The county clerk shall forward one (1) copy, of each application for exoneration to the *Department of* Revenue~~[Cabinet]~~ and shall exclude the amount of the equalization increase from the assessment in the preparation of the property tax bill for each property for which an application for exoneration has been filed.

(5) The county judge/executive shall reconvene the board of supervisors immediately following the close of the period for filing applications for exoneration from the increase. The board shall schedule and conduct hearings on all applications in the manner prescribed for hearing appeals by KRS 133.120; however, the board shall not have authority to reduce any assessment to an amount less than that listed for the property at the time of adjournment of the regular board session.

(6) The county clerk shall act as clerk of the reconvened board and shall keep an accurate record of the proceedings in the same manner as provided by KRS 133.125. Within five (5) days of the adjournment of the reconvened board, he shall notify each property owner in writing of the final action of the board with relation to the equalization increase and shall forward a copy of the proceedings certified by the chairman of the board and attested by him to the *Department of* Revenue~~[Cabinet]~~ and to the other taxing districts participating in the tax.

(7) Any taxpayer whose application has been denied, in whole or in part, may appeal to the Kentucky Board of Tax Appeals as provided in KRS 131.340, and appeals thereafter may be taken to the courts as provided in KRS 131.370.

(8) The provisions of KRS 133.120(9) shall apply to the payment of taxes upon any property assessment for which an application for exoneration has been filed.

(9) The provisions of subsections (4), (5), (6), (7), and (8) of this section shall only apply to appeals growing out of equalization action by the *Department of* Revenue~~[Cabinet]~~ under the provisions of KRS 133.150.

Section 238. KRS 133.180 is amended to read as follows:

When the *Department of* Revenue~~[Cabinet]~~ has completed its action on the assessment of property in any county, it shall immediately certify to the county clerk the assessment and the amount of taxes due. The *Department of* Revenue~~[Cabinet]~~ shall charge the amount of taxes due from the county to the sheriff of the county. When any item of property is in process of appeal and the valuation has not been finally determined, the certification of such property shall be based on the valuation claimed by the taxpayer as the true value. The county clerk shall affix the certification to the tax books and enter it of record in the order book, and it shall be the sheriff's or collector's warrant for the collection of taxes.

Section 239. KRS 133.181 is amended to read as follows:

If the *Department of* Revenue~~[Cabinet]~~, in making its equalization of the property in any county in accordance with the provisions of KRS 133.150, causes any increase or decrease to be made in the value of any property, the county clerk shall correct the tax books to comply with the final certification of the assessment by the *department*~~[cabinet]~~. As compensation for his services, the clerk shall receive the same compensation per day that he receives for serving as clerk of the board of assessment appeals for as many days as are necessary to make the corrections but not to exceed a total of ten (10) days. One-half (1/2) of such amounts shall be paid out of the county levy and one-half (1/2) out of the State Treasury. Such sums shall be paid at the same time and in the same manner as is the clerk's compensation for preparing the tax bills under KRS 133.240(2).

Section 240. KRS 133.185 is amended to read as follows:

Except as provided in KRS 132.487, no tax rate for any taxing district imposing a levy upon the county assessment shall be determined before the assessment is certified by the *Department of* Revenue~~[Cabinet]~~ to the county clerk as provided in KRS 133.180.

Section 241. KRS 133.200 is amended to read as follows:

(1) In proceedings brought by the state, or by the state on relation of some officer authorized to bring the proceeding, to set aside any order or judgment of a court assessing for taxes for state, county, school or other taxing district purposes any property or omitted property, on the ground of inadequacy of valuation, mistake, fraud, or on any other ground, and to cause a larger assessment to be adjudged, the *commissioner*~~[secretary]~~ of

revenue may direct the drawing of warrants on the State Treasurer to pay from time to time such court costs and reasonable expenses as may be incurred on behalf of the state, including the cost of taking and filing depositions and witnesses' fees, and the payment of official court reporters for services and for a copy of the testimony or depositions.

(2) If the state is successful in the proceedings, and the costs of the action are collected, the costs advanced by the state shall be repaid into the State Treasury.

Section 242. KRS 133.220 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~ annually shall furnish to each county clerk tax bill forms designed for adequate accounting control sufficient to cover the taxable property on the rolls.

(2) After receiving the forms, the county clerk shall prepare for the use of the sheriff or collector a correct tax bill for each taxpayer in the county whose property has been assessed and whose valuation is included in the certification provided in KRS 133.180. If the bills are bound, the cost of binding shall be paid out of the county levy. Each tax bill shall show the rate of tax upon each one hundred dollars ($100) worth of property for state, county, and school purposes; the name of the taxpayer and his mailing address; the number of acres of farm land and its value; the number of lots and their value; the amount and value of notes and money; the value of mixed personal property; and the total amount of taxes due the state, county, school fund, and other levies. Provision shall be made for the sheriff to have a stub, duplicate, or other proper evidence of receipt of payment of each tax bill.

(3) Tax bills prepared in accordance with the certification of the *Department of* Revenue~~[Cabinet]~~ shall be delivered to the sheriff or collector by the county clerk before September 15 of each year. The clerk shall take a receipt showing the number of tax bills and the total amount of tax due each taxing district as shown upon the tax bills. The receipt shall be signed and acknowledged by the sheriff or collector before the county clerk, filed with the county judge/executive, and recorded in the order book of the county judge/executive in the manner required by law for recording the official bond of the sheriff.

(4) Upon delivery to him of the tax bills, the sheriff or collector shall mail a notice to each taxpayer, showing the total amount of taxes due the state, county, school fund, and other levies, the date on which the taxes are due, and any discount to which the taxpayer may be entitled upon payment of the taxes prior to a designated date.

(5) All notices returned as undeliverable shall be submitted no later than the following work day to the property valuation administrator. The property valuation administrator shall correct inadequate or erroneous addresses if the information to do so is available and, if property has been transferred, shall determine the new owner and the current mailing address. The property valuation administrator shall return the corrected notices to the sheriff or collector on a daily basis as corrections are made, but no later than fifteen (15) days after receipt. Uncorrected notices shall be submitted to the *department*~~[cabinet]~~ by the property valuation administrator.

Section 243. KRS 133.225 is amended to read as follows:

The *Department of* Revenue~~[Cabinet]~~ shall draft, and the sheriff shall mail with the property tax bills annually, an explanation of the provisions of Acts 1979 (Ex. Sess.) ch. 25.

Section 244. KRS 133.230 is amended to read as follows:

Upon receipt of a certification of omitted property by the property valuation administrator or by the *Department of* Revenue~~[Cabinet]~~, the county clerk shall make out for the use of the sheriff or collector a tax bill for each taxpayer who owes omitted taxes. The omitted tax bills shall be attested by the clerk in the same manner as the tax bills described in KRS 133.220. The clerk shall deliver the omitted tax bill to the sheriff or collector as soon as the omitted property has been finally assessed.

Section 245. KRS 133.240 is amended to read as follows:

(1) The county clerk shall be allowed thirty cents ($0.30) for calculating the state, county, and school tax and preparing a tax bill for each individual taxpayer for the sheriff or collector under the provisions of KRS 133.220, and one dollar ($1) for each tax bill made in case of an omitted assessment.

(2) The county clerk shall present his account to the fiscal court, verified by his affidavit, together with his receipt from the sheriff for the tax bills and his receipt from the *Department of* Revenue~~[Cabinet]~~ for the recapitulation sheets. If found correct, the court shall allow the account, and order one-half (1/2) of it paid out of the levy and the other one-half (1/2) out of the State Treasury. The county clerk shall certify the allowance

to the Finance and Administration Cabinet, which shall draw a warrant on the State Treasurer in favor of the county clerk for the state's one-half (1/2).

(3) The above county allowance shall likewise be paid to the county clerk for calculation of the state, county, city, consolidated local government, urban-county government, school, and special district tax for each individual motor vehicle taxpayer, based upon certification from the *Department of* Revenue~~[Cabinet]~~ of the number of accounts as of January 1 each year.

Section 246. KRS 133.250 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~ shall conduct sales-assessment ratio studies for each county and shall submit the ratio to each property valuation administrator by September 1 of each year or within thirty (30) days of submission of the property valuation administrator's final recapitulation to the *department*~~[cabinet]~~ as provided for in KRS 133.125, whichever date is later. Randomly selected sample appraisals shall be conducted by the *Department of* Revenue~~[Cabinet]~~ for each class of real property in each county no less than once every two (2) years to supplement sales data used in the assessment ratio study and to verify and enhance the statistical validity of the ratio study in determining measures of central tendency and variation.

(2) The property valuation administrator shall begin revaluation of property in his county, in preparation for the following year's property assessment, immediately following submission of the final recapitulation to the *Department of* Revenue~~[Cabinet]~~ as provided for in KRS 133.125.

(3) By January 30 of each year, the *Department of* Revenue~~[Cabinet]~~ shall cause to be published in the newspaper of largest circulation in each county, a listing of the percentage of fair cash value attainment of real property assessments as calculated by assessment ratio studies which shall be conducted by the *Department of* Revenue~~[Cabinet]~~.

Section 247. KRS 133.990 is amended to read as follows:

(1) The failure of any member to be in attendance promptly on the days fixed for the sessions of the county board of assessment appeals without reasonable excuse shall subject him to a fine of not exceeding twenty-five dollars ($25).

(2) Any county clerk who fails to make out, for the use of the sheriff or collector, the book or books of tax bills and stubs provided in KRS 133.220, and deliver same to the sheriff or collector on or before September 15 of each year, shall pay a penalty of ten dollars ($10) for each day's delay which must be deducted by the *Department of* Revenue~~[Cabinet]~~ from such sum, or sums, as may be due, or become due from the Commonwealth for official duties, and the date of the receipt required to be signed by the sheriff or collector by the provisions of KRS 133.220 shall be prima facie evidence of the delivery of same.

(3) Any county clerk who, without reasonable excuse, fails to return to the *Department of* Revenue~~[Cabinet]~~ copies of any books, papers, or records required by it in the manner and at the time prescribed by law, shall, upon conviction, be fined not less than ten dollars ($10) nor more than one hundred dollars ($100) for each offense.

Section 248. KRS 134.010 is amended to read as follows:

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

(1) "*Commissioner*~~[Secretary]~~" means the *commissioner*~~[secretary]~~ of revenue.

(2) "*Department*~~[Cabinet]~~" means the *Department of* Revenue~~[Cabinet]~~.

(3) "Real property" includes all lands within this state and improvements thereon.

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(6) "Tax claim" includes, in addition to the taxes due on a tax bill, the penalties, costs, fees, interest, commissions, the lien provided in subsection (1) of KRS 134.420 and other such items or expenses that have become or are by reason of the delinquent tax bill proper legal charges imposed by this chapter against the delinquent taxpayer at any given time.

(7) "Uncollectible tax bill" means a tax bill of a delinquent who owns no real property and which has been returned to the fiscal court by the sheriff or collector because there is insufficient or no personal property to satisfy it, and which has been allowed and approved in the settlement with the court as uncollectible.

(8) "Sheriff" includes any collector whose duty it is to receive or collect state, county or district taxes.

Section 249. KRS 134.020 is amended to read as follows:

(1) All state, county, and district taxes, except as otherwise provided by law, shall be due and payable on September 15 following the assessment; except that all taxes in any year on unmanufactured tobacco, money in hand, or money on deposit outside this state, shall be due and payable on the second succeeding September 15 following the assessment, unless otherwise provided by law.

(2) Any taxpayer who pays his state, county, or district taxes by November 1 after they become due in any year shall be entitled to two percent (2%) discount thereon, and the sheriff shall allow the discount and give a receipt in full to the taxpayer. The sheriff may, at any time after the taxes mentioned in this section become due, receive less than the face amount of the tax bill as a credit on the amount due, including the amount of any penalties then due; and every payment shall be credited upon the tax bill or upon sheets annexed thereto for that purpose, and acknowledged in writing or by a rubber stamp, indicating the amount so paid to the sheriff. The sheriff or any authorized collector of property taxes may accept payment of taxes due by any commercially acceptable means, including credit cards.

(3) All state, county, and district taxes, except as otherwise provided by law, shall become delinquent on January 1 following their due date.

(4) Any taxes which are not paid by the date when they become delinquent shall be subject to a penalty of ten percent (10%) on the taxes due and unpaid; except that taxes which became delinquent on January 1 shall be subject to a penalty of only five percent (5%) on the taxes due and unpaid, if paid on or before the last day of January. The sheriff shall collect the penalty and account for it as he is required to collect and account for taxes.

(5) When the tax collection schedule is delayed, through no fault of the taxpayers, the *Department of* Revenue~~[Cabinet]~~ may institute a revised collection schedule. The revised collection dates shall allow a two percent (2%) discount for all payments made within thirty (30) calendar days of the date the tax bills were mailed. Upon expiration of the time period to pay the tax bill with a discount, the face amount of the tax bill shall be due during the next thirty (30) days. If the time period to pay the face amount has lapsed, a five percent (5%) penalty shall be added to the tax bill for payments made during the next thirty (30) day period. Upon expiration of this time period, a ten percent (10%) penalty shall be added to all tax bills paid thereafter.

(6) If, upon expiration of the five percent (5%) penalty period, the real property tax delinquencies of the sheriff exceed fifteen percent (15%), the sheriff shall be required to make additional reasonable collection efforts. If the sheriff fails to initiate additional reasonable collection efforts within fifteen (15) business days following the expiration of the five percent (5%) penalty period, the *commissioner*~~[secretary]~~ of the *department*~~[cabinet]~~ may act in the name of and on behalf of the cities, counties, schools, and other taxing districts to collect the delinquent taxes. In the performance of any tax collection duties undertaken by the *department*~~[cabinet]~~, the *department*~~[cabinet]~~ shall have all the powers, rights, and authority for the collection of taxes established in Chapters 131, 132, 133, and 134 of the Kentucky Revised Statutes. If the *department*~~[cabinet]~~ assumes collection duties, all fees and commissions which the sheriff would have been entitled to receive from the taxing districts after the expiration of the five percent (5%) penalty period shall be paid to the *department*~~[cabinet]~~ for deposit in the delinquent tax fund as provided in KRS 134.400.

Section 250. KRS 134.040 is amended to read as follows:

If a tax is paid before the taxpayer's liability has been ascertained or before the taxpayer is notified thereof, the acceptance and deposit into the State Treasury of the remittance by the *Department of* Revenue~~[Cabinet]~~ shall not imply that the payment was the correct amount due, nor preclude assessment and collection of additional taxes found to be due, or refund of any part of the amount paid that may be in excess of that determined to be due.

Section 251. KRS 134.050 is amended to read as follows:

(1) Every tax imposed by law and all increases, penalties and interest thereon shall be a personal debt of the person liable for the payment thereof, from the time the tax becomes due until paid. In addition to all other remedies, the collection thereof may be enforced in the same manner as the collection of any other debt due the state. The

penalty prescribed by KRS 135.060, when applicable, shall be applied to the amount of the original tax, interest and penalties.

(2) The *Department of* Revenue~~[Cabinet]~~ may refuse to accept a personal check as remittance in payment of taxes due or collected by any person who has ever tendered the state a check which, when presented for payment, was not honored. Any check so refused shall be considered as never having been tendered.

Section 252. KRS 134.148 is amended to read as follows:

(1) The sheriff may, at the time he settles his accounts with the fiscal court, pursuant to KRS 134.310 provide the county clerk with a list of taxpayers whose tax bills on motor vehicles or trailers are delinquent.

(2) The county clerk may file a lien on such vehicle or trailer on behalf of the state, county, city, special district and school district and record such lien on the face of the certificate of title and registration and in the manner in which lis pendens are recorded. Delinquent tax bills shall be subject to interest at the rate of one percent (1%) per month or fraction thereof from the date the lien is filed until paid.

(3) (a) No licensed automobile dealer shall be responsible for any tax lien not recorded on the certificate of title and registration presented to the dealer by the seller at the time of the dealer's purchase of the motor vehicle or trailer.

(b) In the event that a tax lien was recorded on the clerk's copy of the certificate of title and registration, but not on the copy of the certificate of title and registration presented to the dealer by the seller at the time of the dealer's purchase of the motor vehicle or trailer, prior to the purchase of the motor vehicle or trailer by the dealer, upon presentation of proof to the county clerk that such was the case, the county clerk shall file such proof with his copy of the certificate of title and registration and shall remove the lien.

(4) In the event that a bona fide purchaser for value without notice purchases a motor vehicle or a trailer on which no lien has been filed on the certificate of title of such motor vehicle or trailer as provided for in subsection (2) of this section, such person shall not be held responsible for paying delinquent ad valorem taxes or lien fees on the certificate of title of such motor vehicle or trailer if such lien was placed on the certificate of title after same person's purchase of the motor vehicle or trailer.

(5) Upon proof being presented to the county clerk that the motor vehicle or trailer was transferred to a bona fide purchaser for value without notice prior to the placing of a lien on a certificate of title and registration, the clerk shall file such proof with the certificate of title and registration and shall then remove the lien.

(6) The lien filing fee, as provided for in KRS 64.012, shall be added to the tax bill and be payable with the lien releasing fee by the registrant at the time of payment of the delinquent tax to the county clerk.

(7) The county clerk shall give a receipt to the registrant and make a report to the *Department of* Revenue~~[Cabinet]~~, the county treasurer and the other proper officials of all taxing districts that are due proceeds from the payment on the last working day of each month. He shall pay to the *Department of* Revenue~~[Cabinet]~~ for deposit with the State Treasurer all moneys collected by him due to the state, to the county treasurer, all moneys due to the county and to the proper officials of all other taxing districts, the amount due each district. He shall pay the amount of fees, costs, commissions, and penalties to the persons, agencies or parties entitled thereto.

Section 253. KRS 134.150 is amended to read as follows:

No field agent, accountant or attorney of the *Department of* Revenue~~[Cabinet]~~ may collect any money due the state, or any county, school or other taxing district without specific written authority from the *commissioner*~~[secretary]~~ of revenue.

Section 254. KRS 134.160 is amended to read as follows:

(1) The sheriff shall keep his office at the county seat, except in counties where he has an office already established in a city other than the county seat, in which case he shall continue his office at the place now established. The fiscal court shall provide him with a room or rooms for an office, with a vault or place of safety in which to keep the records of his office. He shall keep his office open for the collection of taxes at all reasonable times, except on Sundays and legal holidays.

(2) The sheriff shall keep an accurate account of all moneys received by him, showing the amount, the time when and the person from whom received, and on what account. He shall also keep an accurate record of all

disbursements made by him, showing the amount, to whom paid, the time of payment, and on what account. He shall so arrange and keep his books that the amounts received and paid on account of separate and distinct appropriations shall be exhibited in separate and distinct accounts. He shall balance his books on the first day of each month, so as to show the correct amount on hand belonging to each fund on the day the balance is made. The books shall be paid for as other county records.

(3) The sheriff shall keep his books and accounts in the manner and form required by the *Department of* Revenue~~[Cabinet]~~.

(4) The books of the sheriff shall be open at all times to the inspection of the Auditor of Public Accounts, the *Department of* Revenue~~[Cabinet]~~, the fiscal court or any member thereof, the Commonwealth's and county attorneys, and any taxpayer or person having any interest therein.

Section 255. KRS 134.190 is amended to read as follows:

(1) A sheriff who believes, on reasonable grounds, that any person from whom a tax is due is about to conceal or remove his property from the state, county or taxing district shall immediately collect the taxes in the manner provided for the collection of taxes, costs and penalties of delinquent taxpayers.

(2) Anyone holding royalties or payments derived from property shall, if requested by the *Department of* Revenue~~[Cabinet]~~, sheriff, or collector, remit payment for delinquent taxes due on that property. However, the amount remitted shall not exceed the total amount being held. The delinquent tax payment may be deducted from the royalties or payments owed to the property owner. The property tax bill receipt shall be evidence of payment and authorization for deduction.

Section 256. KRS 134.215 is amended to read as follows:

(1) An outgoing sheriff, as soon as his successor has been qualified and inducted into office and his official bond approved, shall immediately vacate his office, deliver to his successor all books, papers, records, and other property held by virtue of his office, and make a complete settlement of his accounts as sheriff, except as otherwise provided in this section.

(2) All unpaid tax bills and bills upon which partial payments have been accepted in the possession of the sheriff upon the date of expiration of his term shall be turned over to the incoming sheriff, who shall collect and account for them as provided by law. The outgoing sheriff shall take a receipt from the incoming sheriff for the unpaid and partially paid tax bills. This receipt shall show in detail for each unpaid and for each partially paid tax bill the total amount due each taxing district as shown upon the tax bills. Provided, however, in counties containing a population of seventy thousand (70,000) or over, the receipt shall show the total amount due each taxing district as shown upon the unpaid and partially paid tax bills. The receipt shall be signed and acknowledged by the incoming sheriff before the county clerk, filed with the county judge/executive, and recorded in the order book of the county judge/executive in the manner required by law for recording the official bond of the sheriff. A certified copy of the receipt as recorded in the order book of the county judge/executive shall be filed with the *Department of* Revenue~~[Cabinet]~~. The outgoing sheriff and his bondsmen or sureties shall be relieved in securing his quietus and in the final settlement of his accounts of all responsibility for collecting and accounting for the amounts covered by the receipt, and the incoming sheriff shall be charged with full responsibility for collecting and accounting for these amounts as otherwise provided by law for the collection and accounting for taxes. 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.

(3) Each outgoing sheriff shall make a final settlement with the *Department of* Revenue~~[Cabinet]~~ and the fiscal court and taxing district of his county by March 15 immediately following the expiration of his term of office for all charges of taxes made against him and for all money received by him as sheriff and to obtain his quietus, and immediately thereafter he shall deliver these records to the incumbent sheriff.

(4) For purposes of accounting for unpaid and partially paid tax bills, either the outgoing sheriff, the incoming sheriff, or both, may, by giving advance notice by publication pursuant to KRS Chapter 424, refuse to accept payment of ad valorem taxes during any or all of that portion of their terms of office from January 1 through January 15. Irrespective of whether the office refuses to accept payment of taxes during any or all of this fifteen (15) day period, both the incoming and outgoing sheriffs shall have working access to the office facilities and to the records and mail of the sheriff's office relating to the payment, collection, and refund of ad valorem taxes on property. Interest shall not be assessed or collected for the period during which payment of taxes is prohibited under the terms of this section.

(5) The outgoing sheriff shall be allowed and paid in accordance with KRS 64.140 and 64.530 the reasonable expenses actually incurred in preparing the receipt required under this section. Reasonable expenses actually incurred may include office expenses and salaries of himself, deputies, and employees paid in accordance with the schedule of the previous year or the amount paid an auditor necessary in determining, verifying, and recording the unpaid and partially paid tax bills turned over to the incoming sheriff.

Section 257. KRS 134.240 is amended to read as follows:

The bond of the sheriff executed pursuant to KRS 134.230 shall be, in substance, as follows: "We, A B (sheriff), and C D and E F, his sureties, bind and obligate ourselves, jointly and severally, to the Commonwealth of Kentucky, that the said A B (sheriff), shall faithfully perform his duties. Witness our signature this .... of ....." The bond shall be executed in duplicate. One (1) duplicate shall be filed and recorded in the county clerk's office, and the other shall be sent to the *Department of* Revenue~~[Cabinet]~~ and filed in its office.

Section 258. KRS 134.270 is amended to read as follows:

Neither the sheriff nor a surety shall be liable for any act or default of the sheriff in connection with his revenue duties unless notice of the act or default of the sheriff giving rise to a claim upon the bond has been given to the surety by the *Department of* Revenue~~[Cabinet]~~, the county judge/executive, the county attorney, or other person asserting the claim within ninety (90) days after discovery or at the latest within one (1) year after the end of the year within which the bond was executed.

Section 259. KRS 134.280 is amended to read as follows:

(1) On the failure of the sheriff to execute bond and qualify as provided in KRS 134.230 he shall forfeit his office, and the county judge/executive may appoint a sheriff to fill the vacancy until a sheriff is elected, or it may appoint a collector for the county of all moneys due the state, county or taxing district authorized to be collected by the sheriff, or it may appoint a separate collector of all the moneys due the state, county or any taxing district thereof during the vacancy in the office of sheriff. If the county judge/executive fails for thirty (30) days to appoint a collector of money due the state, the *Department of* Revenue~~[Cabinet]~~ may appoint a collector thereof. These collectors shall, within ten (10) days after their appointment, execute bond as required of the sheriff, to be approved by the county judge/executive, and if the bond is not executed within that time the appointment of another collector may, in like manner, be made, but such collector shall be required to give bond for and collect only the taxes or moneys provided for in the order of the county judge/executive appointing him.

(2) A sheriff who forfeits his office under subsection (1) of this section, or who resigns his office, shall not be appointed deputy sheriff or collector for the county, or elisor, deputy collector or deputy elisor.

Section 260. KRS 134.290 is amended to read as follows:

(1) In counties where the state taxes charged to the sheriff for the year are less than seventy-five thousand dollars ($75,000), he shall be allowed by the *Department of* Revenue~~[Cabinet]~~, for collecting such taxes, a commission of ten percent (10%) upon the first ten thousand dollars ($10,000) and four and one-quarter percent (4.25%) upon the residue. In all other counties, he shall be allowed ten percent (10%) upon the first five thousand dollars ($5,000) and four and one-quarter percent (4.25%) upon the residue.

(2) In counties where county taxes and special district taxes, excluding school taxes, charged to the sheriff for the year are less than one hundred fifty thousand dollars ($150,000), he shall be allowed by the county treasurer for collecting such taxes ten percent (10%) upon the first ten thousand dollars ($10,000) and four and one-quarter percent (4.25%) upon the residue. In all other counties, he shall be allowed ten percent (10%) upon the first five thousand dollars ($5,000) and four and one-quarter percent (4.25%) upon the residue.

(3) Notwithstanding the provisions of subsection (1) of this section, the *Department of* Revenue~~[Cabinet]~~ shall allow the sheriff a commission for 1996 and subsequent years equal to the amount allowed the sheriff in 1995, or the amount required by the provisions of subsection (1) of this section, whichever is greater.

(4) Notwithstanding the provisions of subsection (2) of this section, the county treasurer shall allow the sheriff a commission for 1996 and subsequent years equal to the amount allowed the sheriff in 1995, or the amount required by the provisions of subsection (2) of this section, whichever is greater.

Section 261. KRS 134.310 is amended to read as follows:

(1) The sheriff shall annually settle his accounts for county and district taxes with the fiscal court after making settlement with the *Department of* Revenue~~[Cabinet]~~. The fiscal court shall appoint some competent person

other than the Commonwealth's or county attorney to settle the accounts of the sheriff for money due the county or district. The *department*~~[cabinet]~~, at the request of the fiscal court or any school district, may conduct the local settlement. If no local settlement has been initiated by July 1 of any year, the *department*~~[cabinet]~~ may initiate the local settlement on behalf of the local district. Upon completion of the local settlement, the *department*~~[cabinet]~~ may receive reasonable reimbursement for expenses incurred. The report of the state and local settlement shall be filed in the county clerk's office and approved by the county judge/executive no later than September 1 of each year. The settlement shall show the amount of ad valorem tax collected, and an itemized statement of the money disbursed.

(2) The settlement shall be published pursuant to KRS Chapter 424. The report of the settlement shall be subject to objections by the sheriff or by the county attorney, who shall represent the state and county, and the county judge/executive shall determine the objections. Objections shall be submitted to the county judge/executive within fifteen (15) days of the filing of the settlement in the clerk's office. If no objections are submitted, the settlement will become final.

(3) If the county judge/executive denies the objections, the sheriff may institute an action in Circuit Court within fifteen (15) days of receipt of the denial for review of the settlement and objections. Upon review, the Circuit Court shall issue its determination and the settlement shall become final. The final settlement shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810.

(4) On the final settlement, the sheriff shall pay to the county treasurer all money that remains in his hands, and take receipts as provided in KRS 134.300, and shall pay any additional amounts charged against him as a result of the settlements. If the sheriff fails to remit amounts charged against him the *department*~~[cabinet]~~ may issue bills for the subsequent year and may assume all collection duties in the name of and on behalf of the cities, counties, school districts, and other taxing districts to collect the taxes. In the performance of any tax collection duties undertaken by the *department*~~[cabinet]~~, the *department*~~[cabinet]~~ shall have all the powers, rights, and authority for the collection of taxes established in Chapters 131, 132, 133, and 134 of the Kentucky Revised Statutes. The fees and commissions which the sheriff would have been entitled to receive from the taxing districts shall be paid to the *department*~~[cabinet]~~.

(5) In counties containing a population of less than seventy thousand (70,000), the sheriff shall file annually with his final settlement:

(a) A complete statement of all funds received by his office for official services, showing separately the total income received by his office for services rendered, exclusive of his commissions for collecting taxes, and the total funds received as commissions for collecting state, county, and school taxes; and

(b) A complete statement of all expenditures of his office, including his salary, compensation of deputies and assistants, and reasonable expenses.

(6) At the time he files the statements required by subsection (5) of this section, the sheriff shall pay to the fiscal court any fees, commissions, and other income of his office, including income from investments, which exceed the sum of his maximum salary as permitted by the Constitution and other reasonable expenses, including compensation of deputies and assistants. The settlement for excess fees and commissions and other income shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810, and the provisions of this subsection shall not be construed to amend KRS 64.820 or 64.830.

(7) 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.

Section 262. KRS 134.320 is amended to read as follows:

(1) The sheriff shall, by the tenth day of each month, or more often as may be required by the *Department of* Revenue~~[Cabinet]~~ to prevent the sheriff from having funds in his possession in excess of the amount of his bond, report under oath to the *department*~~[cabinet]~~ the amount of all state taxes he has collected during the preceding month, or for such period as the *department*~~[cabinet]~~ may require.

(2) The sheriff shall, at the time of making this report, pay to the *department*~~[cabinet]~~, for deposit with the State Treasurer, all taxes he has collected for the state for the preceding month or period.

(3) The *department*~~[cabinet]~~ may report to the grand jury of Franklin County any sheriff failing to report as required. Any sheriff failing to pay over any taxes collected by him and due the state, as provided by law, shall be required by the *department*~~[cabinet]~~ to pay a penalty of one percent (1%) for each thirty (30) day period or

fraction thereof plus interest at the legal rate per annum on such taxes. The *department*~~[cabinet]~~ in its settlement with the sheriff shall charge him with such penalties and interest.

(4) The *Department of* Revenue~~[Cabinet]~~ may grant an extension of time, not to exceed fifteen (15) days, for filing the report required by subsection (1) whenever, in its judgment, good cause therefor exists. The extension shall be in writing, and the *department*~~[cabinet]~~ shall keep a record of such extensions. The extension when granted shall suspend the penalty and interest provided by subsection (3) for the duration of the extension. The penalty and interest shall apply at the expiration of the extension.

Section 263. KRS 134.325 is amended to read as follows:

Each sheriff shall conduct the sale of delinquent tax bills required by KRS 134.430 and make his records available for settlement with the *Department of* Revenue~~[Cabinet]~~ for all taxes collected for the Commonwealth before April 30 of each year during his term of office. In the event that any sheriff resigns, dies, or otherwise vacates his office, the books and records shall be made available within thirty (30) days from the date that the office is vacated. Any sheriff who fails to make the settlement books and records available or fails to remit any amounts which are due to the taxing districts as required by law shall be subject to indictment in the county of his residence and fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000).

Section 264. KRS 134.330 is amended to read as follows:

(1) No tax bill or tax book shall be delivered to the sheriff during the second or any subsequent calendar year of the sheriff's regular term until he exhibits a quietus from the *Department of* Revenue~~[Cabinet]~~ and from the fiscal court of his county for the preceding tax period and his revenue bond, if bonding is required by the fiscal court, for the next tax year.

(2) If the tax records of a county are destroyed by fire, lost, stolen, or mutilated so as to require reassessment of the property in the county or a recertification of the tax bills, the sheriff shall have five (5) months from the time he receives the recertified tax bills within which to make settlement with the *department*~~[cabinet]~~ and the fiscal court, and to receive his quietus from the *department*~~[cabinet]~~ and the fiscal court.

Section 265. KRS 134.340 is amended to read as follows:

(1) The sheriff shall, when he collects money from a delinquent taxpayer, record the tax, interest and penalty on his record book kept for that purpose.

(2) If the sheriff fails to record the money collected from a delinquent taxpayer, or fails to collect the tax due from a delinquent taxpayer if it was collectible by sale or otherwise when it came to his hands, he shall be held liable on his bond for the amount of tax, penalties, interest and costs due from the delinquent taxpayer that was collectible, plus thirty percent (30%) penalty thereon, to be recovered in the Circuit Court of the county in which the tax is due, on motion of the county attorney or agent of the *Department of* Revenue~~[Cabinet]~~ in the name of the state. The county attorney shall prosecute all such motions, for which services he shall be entitled to the penalties thereon recovered of the sheriff, but only if the tax, interest, costs, and penalties due are recovered and paid to the officers entitled to receive the same. The sheriff shall have ten (10) days' previous notice of the motion.

Section 266. KRS 134.360 is amended to read as follows:

In making his settlements with the fiscal court and the *Department of* Revenue~~[Cabinet]~~, the sheriff shall file a list of uncollectible delinquent taxes, which shall entitle the sheriff to a credit in his official settlement. The sheriff shall also be allowed credit in his official settlement for the tax bills on which certificates of delinquency have properly been issued to the state, county, and taxing districts.

Section 267. KRS 134.380 is amended to read as follows:

(1) The *commissioner*~~[secretary]~~ may act in the name of and in behalf of the state and in the name of and in behalf of any and all counties, consolidated local government, school, and other taxing districts in the state to institute and prosecute any action or proceeding for the collection of delinquent taxes and the assessment of omitted property. If the *department*~~[cabinet]~~ assumes the duties of collecting the delinquent taxes assessed under the authority of KRS Chapter 132, it shall have all the powers, rights, duties, and authority conferred generally upon the *department*~~[cabinet]~~ by the Kentucky Revised Statutes, including but not limited to Chapters 131, 134, and 135.

(2) Field agents, accountants, and attorneys of the *department*~~[cabinet]~~ shall prosecute all actions and proceedings under the direction of the *commissioner*~~[secretary]~~. Field agents, accountants, attorneys, and all other

employees of the *department*~~[cabinet]~~ engaged in the prosecution of the actions shall not be hired by personal service contract. The *commissioner*~~[secretary]~~ shall prosecute diligently, or cause to be prosecuted by field agents, accountants, and attorneys employed by him, the collection of all delinquent taxes due the state.

(3) Nothing contained in this chapter shall prevent the *commissioner*~~[secretary]~~ of revenue from assessing any property in accordance with the provisions of KRS 136.020, 136.030, 136.050, or 136.120 to 136.180.

(4) The *department*~~[cabinet]~~ may require the use of any reports, forms, or databases necessary to administer the law in connection with the collection of delinquent taxes. The *department*~~[cabinet]~~ shall require an index to be kept of all certificates of delinquency.

Section 268. KRS 134.385 is amended to read as follows:

The *department*~~[cabinet]~~ shall conduct a special audit to determine the presence or absence of chronic underassessment in any county for which the sales-assessment ratio studies conducted under the provisions of KRS 133.250 indicates a ratio below eighty percent (80%) for two (2) consecutive calendar years. The audit may be conducted through the use of randomly-selected sample appraisals or other means reasonably calculated to present an accurate determination of assessment practices in the county.

Section 269. KRS 134.390 is amended to read as follows:

A tax bill rendered against omitted property required to be listed with the property valuation administrator or the *Department of* Revenue~~[Cabinet]~~ or against an increase in valuation over that claimed by the taxpayer, as finally determined upon appeal as provided for in KRS 133.120, shall become due on the day the bill is prepared, and shall be considered delinquent and subject to a penalty of ten percent (10%) of the tax, penalty and interest due, unless paid within thirty (30) days after it becomes due, except as otherwise provided by law. All provisions of law of the particular taxing district having an interest therein relating to delinquent taxes on the same class of property or taxpayers involved shall apply to the delinquent omitted tax bill unless otherwise provided by law.

Section 270. KRS 134.400 is amended to read as follows:

(1) All penalties imposed by law, either in whole or in part, in favor of or for the benefit of agents of the *Department of* Revenue~~[Cabinet]~~, sheriffs, and other state, county, or district agents or officers, upon or for the recovery of taxes or the assessment of omitted property, shall be paid into the State Treasury and credited as provided for the twenty percent (20%) penalty in subsection (2) of this section.

(2) The twenty percent (20%) penalty collected on taxes due the state, county, school, or other taxing district shall be paid into the State Treasury. One-fourth (1/4) of the moneys thus received shall be credited to the general expenditure fund. The remaining three-fourths (3/4) shall also be credited to the general expenditure fund unless the General Assembly, in its biennial branch budget bill, provides that it be credited to a fund to be designated and known as the delinquent tax fund, in which case it shall be so credited and so much thereof as may be necessary shall be used for the administration and enforcement of the laws relating to the collection of delinquent taxes and the assessment of omitted property. All salaries, fees, and expenses authorized by the laws relating to the collection of delinquent taxes and the assessment of omitted property, except the fees of county attorneys, shall be payable out of the delinquent tax fund upon certifications or requisitions of the *commissioner*~~[secretary]~~ of revenue.

Section 271. KRS 134.410 is amended to read as follows:

Should any life insurance company, casualty company, marine insurance, fire insurance, security or indemnity company be in debt to the state for back taxes, or should any of such companies fail to pay into the State Treasury the correct amount of taxes due the state, the *commissioner*~~[secretary]~~ of revenue shall cause an investigation to be made of their books and accounts, and employ such expert accountants as he may deem necessary for such work. The granting of power to the *commissioner*~~[secretary]~~ to investigate the books and accounts of those engaged in the business of insurance for the purposes set forth in this section shall not be construed as a denial of power to the *commissioner*~~[secretary]~~ to investigate for the same purposes the books and accounts of individuals or corporations engaged in other types of business, who have failed to pay into the State Treasury the correct amount of tax due the state.

Section 272. KRS 134.420 is amended to read as follows:

(1) The state and each county, city, or other taxing district shall have a lien on the property assessed for taxes due them respectively for ten (10) years following the date when the taxes become delinquent, and also on any real property owned by a delinquent taxpayer at the date when the sheriff offers the tax claims for sale as provided

in KRS 134.430 and 134.440. This lien shall not be defeated by gift, devise, sale, alienation, or any means except by sale to a bona fide purchaser, but no purchase of property made before final settlement for taxes for a particular assessment date has been made by the sheriff shall preclude the lien covering the taxes. The lien shall include all interest, penalties, fees, commissions, charges, costs, reasonable attorney fees, and other expenses incurred by reason of delinquency in payment of the tax bill or certificate of delinquency or in the process of collecting either, and shall have priority over any other obligation or liability for which the property is liable. The lien of any city, county, or other taxing district shall be of equal rank with that of the state. When any proceeding is instituted to enforce the lien provided in this subsection, it shall continue in force until the matter is judicially terminated. Every city of the third, fourth, fifth, and sixth class shall file notice of the delinquent tax liens with the county clerk of any county or counties in which the taxpayer's business or residence is located, or in any county in which the taxpayer has an interest in property. The notice shall be recorded in the same manner as notices of lis pendens are filed, and the file shall be designated miscellaneous state and city delinquent and unpaid tax liens.

(2) If any person liable to pay any tax administered by the *Department of* Revenue~~[Cabinet]~~, other than a tax subject to the provisions of subsection (1) of this section, neglects or refuses to pay the tax after demand, the tax due together with all penalties, interest, and other costs applicable provided by law shall be a lien in favor of the Commonwealth of Kentucky. The lien shall attach to all property and rights to property owned or subsequently acquired by the person neglecting or refusing to pay the tax.

(3) The lien imposed by subsection (2) of this section shall remain in force for ten (10) years from the date the notice of tax lien has been filed by the *commissioner*~~[secretary]~~ of the *Department of* Revenue~~[Cabinet]~~, or his delegate with the county clerk of any county or counties in which the taxpayer's business or residence is located, or any county in which the taxpayer has an interest in property.

(4) The tax lien imposed by subsection (2) of this section shall not be valid as against any purchaser, judgment lien creditor, or holder of a security interest or mechanic's lien until notice of the tax lien has been filed by the *commissioner*~~[secretary]~~ of the *Department of* Revenue~~[Cabinet]~~ or his delegate with the county clerk of any county or counties in which the taxpayer's business or residence is located, or in any county in which the taxpayer has an interest in property. The recording of the tax lien shall constitute notice of both the original assessment and all subsequent assessments of liability against the same taxpayer. Upon request, the *Department of* Revenue~~[Cabinet]~~ shall disclose the specific amount of liability at a given date to any interested party legally entitled to the information.

(5) Even though notice of a tax lien has been filed as provided by subsection (4) of this section, and notwithstanding the provisions of KRS 382.520, the tax lien imposed by subsection (2) of this section shall not be valid with respect to a security interest which came into existence after tax lien filing by reason of disbursements made within forty-five (45) days after the date of tax lien filing or the date the person making the disbursements had actual notice or knowledge of tax lien filing, whichever is earlier, provided the security interest:

(a) Is in property which:

1. At the time of tax lien filing is subject to the tax lien imposed by subsection (2) of this section; and

2. Is covered by the terms of a written agreement entered into before tax lien filing; and

(b) Is protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

Section 273. KRS 134.430 is amended to read as follows:

(1) All personal property owned by a delinquent taxpayer shall be subject to distraint, and all property owned by him shall be subject to levy and sale by the proper collecting officer at any time from February 1 after the tax claim becomes delinquent until the tax claim is barred by limitations, unless otherwise provided by law.

(2) When any taxpayer becomes delinquent in the payment of a tax bill covering any property assessed by the property valuation administrator, the county board of assessment appeals, the *department*~~[cabinet]~~, or any omitted property irrespective of by whom assessed, the sheriff may distrain a sufficient quantity of the delinquent's personal property in the county to pay the tax claim, and a necessary part of this property shall be sold as under execution for cash. Neglect on the part of the sheriff to distrain and sell personal property shall not affect the validity of the sale of the tax claim, or the lien or the rights of any purchaser. If personal property

sufficient to satisfy the tax claim cannot be found in the county, the sheriff may sell so much of the personal property as is found and enter proper credit on the tax bill.

(3) As compensation for services, the sheriff shall be entitled to an additional ten percent (10%) of that part of the tax claim represented by the total taxes plus ten percent (10%) penalty, for all delinquent taxes collected from the time the ten percent (10%) penalty becomes applicable through the sale of the tax claims. This fee shall be added to the total amount due and paid by the person paying the delinquent tax bill.

(4) If no personal property is found, or the amount found is insufficient, the sheriff shall, no later than the first full week in April, advertise for sale the tax claims of the state, county, and other taxing districts, if there is any real property subject to the lien provided in subsection (1) of KRS 134.420. The sheriff shall receive offers for the purchase of tax claims up to fifteen (15) business days following the date of the initial advertisement or no later than April 30, or the last business day prior to April 30, if April 30 falls on a weekend or holiday.

(5) No sheriff shall knowingly sell a tax claim on the same tract of land more than once for the same tax.

Section 274. KRS 134.450 is amended to read as follows:

(1) The sheriff shall sell all tax claims for which payment by the delinquent taxpayer has not been made by the closing date for the acceptance by the sheriff of offers to purchase delinquent tax claims. If there is more than one (1) willing purchaser who has made an offer, the one having made the most recent purchase of a tax claim against the same delinquent or the same property shall have preference; if there is no such person, the person being the first, in the judgment of the sheriff, to offer to pay cash in the full amount of the tax claim shall receive priority for the purchase of the tax claim. If the total of all offers to purchase exceeds ten percent (10%) of the total dollar amount of the delinquent bills offered for sale, or the sum of two hundred thousand dollars ($200,000), whichever is less, the sheriff shall notify the Finance and Administration Cabinet of the offers of purchase within five (5) business days of the closing date when the offers were received. Upon receipt of the notice, the Finance and Administration Cabinet shall purchase the delinquent tax bills upon which the sheriff has received an offer of purchase and shall tender payment to the sheriff within fifteen (15) business days of the receipt of the sheriff's notice. Upon purchase of the tax claims, the state shall be the owner of the tax bills and may contract with the county attorney to collect all amounts due on its behalf under the terms and conditions of the county attorney's contract with the *Department of* Revenue~~[Cabinet]~~ to collect delinquent taxes. If the county attorney has not contracted with the *Department of* Revenue~~[Cabinet]~~ to collect delinquent taxes, the *Department of* Revenue~~[Cabinet]~~ shall collect all amounts due on behalf of the Finance and Administration Cabinet. If the Finance and Administration Cabinet does not purchase all of the delinquent tax bills, within fifteen (15) days of the closing date, the sheriff shall complete the sale of those tax claims for which the sheriff has received responsible offers to purchase. When a sale is made the tax bill shall be known as a certificate of delinquency and the sheriff shall inscribe thereon the date of sale, the sale price, and the name and address of the purchaser, in the place and manner prescribed by the *Department of* Revenue~~[Cabinet]~~, and the purchaser shall be entitled to a certified copy of the certificate of delinquency.

(2) If no responsible offer in the amount of the tax claim is received, the sheriff shall purchase it for the state, county, and taxing districts having an interest in the tax claim. In such case, the tax bill shall also be known as a certificate of delinquency, and the sheriff shall inscribe thereon the same information required when one other than the state, county, or taxing district is the purchaser.

(3) The sheriff shall file all certificates of delinquency in the county clerk's office immediately upon completion of the tax sale, or in a county containing a city of the first class or consolidated local government, within fourteen (14) working days of the sale, and the clerk shall retain them. The county clerk shall acknowledge receipt of the certificates by signing a receipt form that has been prepared in a manner prescribed by the *Department of* Revenue~~[Cabinet]~~. If the sheriff fails to file the certificates, he shall be liable on his official bond for the aggregate amount of the certificates not returned, but the claim of the purchaser shall not be affected by this neglect. If the sheriff fails to return any certificate, the purchaser may file his certified copy with the clerk, with the same effect as the original.

(4) The clerk shall make, execute, and deliver a certified copy of a certificate of delinquency to the payor, or the clerk may provide for a certified electronic register of the certificates of delinquency in the clerk's record in lieu of delivering a certified copy of the certificate of delinquency.

(5) The certificate of delinquency is assignable by endorsement. The clerk shall note the assignment on the certificate of delinquency or the clerk may provide for a certified electronic certificate of delinquency in the clerk's records in lieu of delivering a certified copy of the certificate of delinquency. An assignment when

noted on the record in the office of the county clerk vests in the assignee all rights and title of the original purchaser.

Section 275. KRS 134.480 is amended to read as follows:

(1) The delinquent taxpayer or any person owning or having a legal or equitable interest in real property covered by a certificate of delinquency may at any time pay the total amount of the certificate to any purchaser thereof, and any person whatsoever may likewise pay a certificate of delinquency when the state, county, or taxing district was the purchaser. When a certificate is paid to an owner other than the state, county, or taxing district, the assignee shall mark paid in full on the certified copy of the certificate and shall surrender the certified copy of the certificate of delinquency to the person making payment, and if he is the person primarily liable on the certificate he may file it with the county clerk and have the certificate released of record. When a certificate of delinquency has been fully paid to the state, county, and taxing districts, the clerk shall note the name and address of the person making the payment, the amount paid by him, and such other information as the *Department of* Revenue~~[Cabinet]~~ may require. The clerk shall mark the certificate of delinquency paid in full. Payment in such instance by one other than the person primarily liable on the certificate will amount to an assignment thereof. The clerk shall note the assignment on the certificate of delinquency and provide the assignee a certified copy of the certificate of delinquency, or the clerk may provide for a certified electronic certificate of delinquency in the clerk's records in lieu of delivering a certified copy of the certificate of delinquency. Anyone other than the person primarily liable who pays a certificate or purchases it from an owner other than the state, county, and taxing district may, by paying a fee of fifty cents ($0.50), have the clerk record the payment or purchase and such recordation shall constitute an assignment thereof. Failure to obtain such an assignment shall render the claim of such payor or purchaser to any real estate represented thereby inferior to rights of other bona fide purchasers, payors, or creditors. Any owner of a certificate of delinquency once having paid the assignment fee may have a change of his address noted of record by the clerk without paying an additional charge, otherwise he shall pay a fee of fifty cents ($0.50) to the clerk for entering such change on the certificate.

(2) The county clerk may receive payment of the amount due on certificates of delinquency owned by the state, county, and taxing districts, and he shall give a receipt to the payor and make a report to the *Department of* Revenue~~[Cabinet]~~, the county treasurer, and the proper officials of the taxing districts as often as such units may require, and not less than once in every thirty (30) days. The clerk may accept payment of taxes due by any commercially acceptable means, including credit cards. He shall pay to the *Department of* Revenue~~[Cabinet]~~ for deposit with the State Treasurer all moneys collected by him due the state, to the county treasurer all moneys due the county, and to the authorized officers of the taxing districts the amount due each such district. He shall pay the amount of fees, costs, commissions, and penalties to the persons, agencies, or parties entitled thereto. He shall retain ten percent (10%) of the amount due each taxing unit for his services as a fee. This fee shall be added to the amount of the tax claim and paid by the persons paying the tax claim.

(3) If the person entitled to pay a certificate of delinquency sends a registered letter addressed to the owner of record of the certificate, other than the state, county, or taxing district, and the letter is returned by mail unclaimed, the sender thereof may make payment to the county clerk, who shall make the necessary assignment or release and deposit the money to the account of the owner of record in the nearest bank having its deposits insured with the Federal Deposit Insurance Corporation. The clerk may deduct the sum of fifty cents ($0.50) as a fee for such service. The name of the bank in which the money is deposited shall be noted on the certificate.

(4) If any clerk fails to pay to the person entitled thereto, upon demand, the money received in payment of a certificate of delinquency, he and his sureties shall be liable for the same and twenty percent (20%) interest thereon annually from the time he received it until paid.

(5) Copies of the records provided for in KRS 134.450 and this section, certified by the county clerk, shall be evidence of the facts stated in them in all the courts of this state.

Section 276. KRS 134.500 is amended to read as follows:

(1) (a) Certificates of delinquency shall bear interest at twelve percent (12%) per annum simple interest from the date the certificate of delinquency is issued. A fraction of a month is counted as an entire month. The five dollar ($5) sheriff's fee, the advertising costs provided in KRS 134.420, the clerk's add-on fee provided in KRS 134.480, and the county attorney's add-on fee provided in this section shall be included in the interest calculation in counties containing cities of the first class or consolidated local government and shall be excluded in other counties, except upon adoption of an ordinance by a county to include in the interest calculation the fees provided for in KRS 134.420, the clerk's add-on fee

provided in KRS 134.480, and the county attorney's add-on fee provided in this section. All tax bills on omitted property that were not turned over to the sheriff in time to be collected or to make the sale provided for in KRS 134.430 and 134.440 shall also be submitted to the fiscal court but shall be carried over as a charge against the sheriff at the time he or she makes the next regular settlement.

(b) A certificate of delinquency shall bear interest at twelve percent (12%) per annum simple interest from the date the certificate of delinquency is issued. A fraction of a month is counted as an entire month. The total amount of the certificate of delinquency, the clerk's add-on fee provided in KRS 134.480, and the county attorney's add-on fee provided in this section shall be included in the base for the interest calculation. All tax bills on omitted property that were not turned over to the sheriff in time to be collected or to make the sale provided for in KRS 134.430 and 134.440 shall also be submitted to the fiscal court but shall be carried over as a charge against the sheriff at the time he makes his next regular settlement.

(2) The *department*~~[cabinet]~~ shall be responsible for the collection of certificates of delinquency and delinquent personal property tax bills; however, the *department*~~[cabinet]~~ shall first offer the collection duties to the county attorney, unless the *department*~~[cabinet]~~ determines that the county attorney has previously failed to perform collection duties in a reasonable and acceptable manner. Any county attorney desiring to perform the duties associated with the collection of delinquent tax claims shall enter into a contract with the *department*~~[cabinet]~~ on an annual basis. The terms of the contract shall specify the duties to be undertaken by the county attorney. These duties shall include but are not limited to the following actions:

(a) Within fifty (50) days after the issuance of a certificate of delinquency to the state, county, and taxing district, the county attorney or the *Department of* Revenue~~[Cabinet]~~ shall cause a notice of the purchase to be mailed by regular mail to the property owner at the address on the records of the property valuation administrator. The notice shall advise the owner that the certificate is a lien of record against all property of the owner, and bears interest at the rate of twelve percent (12%) per annum, and if not paid will be subject to collection by the county attorney as provided by law.

(b) The county attorney shall file in the office of the county clerk a list of the names and addresses to which the notice was mailed along with a certificate that the notice was mailed in accordance with the requirements of this section.

(c) All notices returned as undeliverable shall be submitted to the property valuation administrator. The property valuation administrator shall attempt to correct inadequate or erroneous addresses and, if property has been transferred, shall determine the new owner and the current mailing address. The property valuation administrator shall return the notices with the corrected information to the county attorney prior to the expiration of the one (1) year tolling period provided in KRS 134.470.

(d) Within ninety (90) days after the expiration of the one (1) year tolling period provided in KRS 134.470, the county attorney shall cause a notice of his intention to enforce the lien to be mailed to all owners whose tax bills remain delinquent. No second notice shall be required for addresses previously determined to be undeliverable and for which the property valuation administrator has not provided corrected information.

(e) Failure to mail the notices shall not affect the validity of the claim of the state, county, and taxing district. The postal cost of mailing the notices shall be added to the certificate of delinquency and, upon collection, the county attorney shall be reimbursed for the postage. The county attorney shall deliver at the same time a list of the owners whose tax bills remain delinquent to the property valuation administrator. The property valuation administrator shall review this list in accordance with the provisions of KRS 132.220 to establish that the properties on the list can be identified and physically located.

(3) The county attorney who enters into a contract with the *department*~~[cabinet]~~ shall have a period of two (2) years after the expiration of the one (1) year tolling period provided in KRS 134.470 to collect delinquent tax bills or to initiate court action for their collection. At the expiration of the two (2) years the *department*~~[cabinet]~~ may assume responsibility for all uncollected bills except those with pending court action.

(4) The county attorney who enters into a contract with the *department*~~[cabinet]~~ and performs his or her duties in respect to the certificate of delinquency and delinquent personal property tax bills shall be entitled to twenty percent (20%) of the amount due each taxing unit, whether the tax claim is voluntarily paid or is paid through sale or under court order, and the fee shall be paid to him by the county clerk when making distribution, as

provided in KRS 134.480. This fee shall be added to the amount of the tax claims and paid by the persons paying the tax claims. They shall not be paid by the taxing districts or deducted from the taxes due the taxing districts. This fee shall be waived if the certificate of delinquency is paid by the taxpayer only within five (5) days of the sheriff's sale. If more than one (1) county attorney renders necessary services in an effort to collect a tax claim, the attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the fee. When the county attorney's office, in an effort to collect a certificate of delinquency, or delinquent personal property tax bills files a court action which is litigated by the taxpayer, an additional county's attorney fee equal to thirteen percent (13%) of the total tax plus ten percent (10%) penalty, may be added to the certificate or the bill and shall become part of the tax claim.

(5) If a county attorney chooses not to contract for these collection duties or if a county attorney fails to perform the duties required by the contract, the *department*~~[cabinet]~~ shall assume responsibility for the collection process. In the performance of those duties, the *department*~~[cabinet]~~ shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of the amount due on the certificate of delinquency conferred generally upon the *department*~~[cabinet]~~ by Kentucky Revised Statutes including, but not limited to, KRS Chapters 131, 134, and 135. The twenty percent (20%) fee that would have otherwise been paid to the county attorney shall be paid to the *department*~~[cabinet]~~ for deposit in the delinquent tax fund provided for under KRS 134.400.

(6) Any action on behalf of the state, county, and taxing districts authorized by this section or by KRS 134.470, 134.490, or 134.540 shall be filed on relation of the *commissioner*~~[secretary]~~, and the petition may be sent to the *department*~~[cabinet]~~, which may require revision in instances where it deems revision or amendment necessary. The *department*~~[cabinet]~~ shall advise the county attorney in all actions, and may send him or her special assistance when the *commissioner*~~[secretary]~~ deems assistance necessary. A copy of the judgment shall also be sent to the *department*~~[cabinet]~~. If the *department*~~[cabinet]~~ sends assistance to a county attorney who contracts to prosecute the suits or proceedings, the county attorney shall be entitled to his or her full fee. On the same day that suit is filed, the county clerk shall be given notice of its filing. Costs incident to the suit shall become a part of the tax claim.

(7) The *department*~~[cabinet]~~ may make its delinquent tax collection databases and other technical resources, including but not limited to income tax refund offsetting, available to the county attorney upon request from the county attorney. The county attorney seeking assistance shall enter into any agreements required by the *department*~~[cabinet]~~ to protect taxpayer confidentiality, to ensure database integrity, or to address other concerns of the *department*~~[cabinet]~~.

(8) The county attorney may, at any time after assuming collection duties, enter into an agreement with the delinquent taxpayer to accept installment payments on the delinquent tax bill. The agreement shall not waive the county attorney's right to initiate court action or other authorized collection activities if the taxpayer does not make payments in accordance with the agreement.

Section 277. KRS 134.505 is amended to read as follows:

Any person while serving as county attorney who was required by law by reason of his office to prosecute an action or to assist the *commissioner*~~[secretary]~~ of revenue in prosecuting an action to enforce a claim of the state, county, school district and any other taxing district to any land which was purchased by such districts at a sheriff's sale or sales for delinquent taxes and who did not institute such action before he relinquished his office or otherwise failed to perform substantially all the duties of his office relative to the claim, shall not be entitled to receive any commission or compensation for any such sale or sales when the redemption costs are paid. Any county clerk or other person authorized to collect funds to satisfy unredeemed land sales shall be liable for any such money distributed as a commission to any former county attorney who is not entitled to it.

Section 278. KRS 134.510 is amended to read as follows:

(1) After the state, county and taxing districts obtain real property as authorized by KRS 134.490, the designated agent of the *commissioner*~~[secretary]~~ of revenue may advertise and sell at public sale any of the lands, and the *commissioner*~~[secretary]~~ may convey the lands by deed to the purchaser. The *commissioner*~~[secretary]~~ shall, within thirty (30) days from receipt of payment, pay to the county and taxing district the amount of the proceeds due each. The *Department of* Revenue~~[Cabinet]~~ shall be entitled to an administration fee equal to fifteen percent (15%) of the sale price of the property, which shall be paid into the delinquent tax fund provided for in KRS 134.400.

(2) The sales shall be advertised by a written or printed notice posted at the courthouse door for fifteen (15) days before the date of sale, and by publication pursuant to KRS Chapter 424, and may in addition be advertised by printed handbills posted for fifteen (15) days before the date of sale in three (3) or more conspicuous places in the taxing districts.

(3) Any real property acquired by the state, county and taxing districts pursuant to KRS 134.490 may be redeemed at any time before the *commissioner*~~[secretary]~~ gives a deed to a purchaser, by paying to the county clerk the amount due at the time the property was acquired, plus subsequent costs and interest at the rate of twelve percent (12%) per annum.

Section 279. KRS 134.540 is amended to read as follows:

(1) When the *Department of* Revenue~~[Cabinet]~~ has reason to believe that any sale made under the authority of Section 32 of Article VIII of Chapter 22 of the Acts of 1906, or Section 3 of Chapter 43 of the Acts of 1908, or Section 2 or 5 of Chapter 21 of the Acts of the first Extraordinary Session of 1938, is for any reason invalid, the invalidity may be alleged in an action to establish the lien provided for in Chapter 152 of the Acts of 1934. The action shall be brought on the relation of the *commissioner*~~[secretary]~~ of revenue, who shall publish notice on the courthouse door for fourteen (14) days before instituting the action, notifying all delinquents that actions will be instituted unless the delinquent taxes against land subject to such actions are paid at once. If the owner does not redeem the land within ten (10) days after the expiration of the fourteen (14) day period, and the *commissioner*~~[secretary]~~ is required to institute action, the state shall be entitled to a fee equal to fifteen percent (15%) of the amount of the taxes, penalties and interest, which shall be paid into the delinquent tax fund provided under KRS 134.400, to be used by the *Department of* Revenue~~[Cabinet]~~ to cover the expenses of filing and administering such actions. If the property is redeemed after action is instituted, the fee shall become a part of the redemption price. The *commissioner*~~[secretary]~~ may, if he deems necessary, institute action without giving the notice provided in this section, in which event the fifteen percent (15%) fee shall not apply.

(2) The county attorney shall assist the *Department of* Revenue~~[Cabinet]~~ in filing and prosecuting the actions. For these services he shall be entitled to twenty percent (20%) of the taxes, penalties and interest. If he fails or refuses to assist in filing and prosecuting the actions, he shall not be entitled to this fee.

(3) An action shall not be instituted on behalf of the state to establish the lien provided for in Chapter 152 of the Acts of 1934 until after the expiration of the time that must expire before action to recover possession can be instituted.

Section 280. KRS 134.580 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Agency" means the agency of state government which administers the tax to be refunded or credited.

(b) "Overpayment" or "payment where no tax was due" means the tax liability under the terms of the applicable statute without reference to the constitutionality of the statute.

(2) When money has been paid into the State Treasury in payment of any state taxes, except ad valorem taxes, whether payment was made voluntarily or involuntarily, the appropriate agency shall authorize refunds or credits, to the person who paid the tax, or to his heirs, personal representatives or assigns, of any overpayment of tax and any payment where no tax was due. When a bona fide controversy exists between the agency and the taxpayer as to the liability of the taxpayer for the payment of tax claimed to be due by the agency, the taxpayer may pay the amount claimed by the agency to be due, and if an appeal is taken by the taxpayer from the ruling of the agency within the time provided by KRS 131.340 and it is finally adjudged that the taxpayer was not liable for the payment of the tax or any part thereof, the agency shall authorize the refund or credit as the Kentucky Board of Tax Appeals or courts may direct.

(3) Refunds or credits shall be authorized with interest as provided in KRS 131.183. The refunds authorized by this section shall be made in the same manner as other claims on the State Treasury are paid. They shall not be charged against any appropriation, but shall be deducted from tax receipts for the current fiscal year.

(4) Nothing in this section shall be construed to authorize the agency to make or cause to be made any refund except within four (4) years of the date prescribed by law for the filing of a return including any extension of time for filing the return, or the date the money was paid into the State Treasury, whichever is the later, except in any case where the assessment period has been extended by written agreement between the taxpayer and the *department*~~[cabinet]~~, the limitation contained in this subsection shall be extended accordingly. Nothing in this

section shall be construed as requiring the agency to authorize any refund or credit to a taxpayer without demand from the taxpayer, if in the opinion of the agency the cost to the state of authorizing the refund or credit would be greater than the amount that should be refunded or credited.

(5) This section shall not apply to any case in which the statute may be held unconstitutional, either in whole or in part.

(6) In cases in which a statute has been held unconstitutional, taxes paid thereunder may be refunded to the extent provided by KRS 134.590, and by the statute held unconstitutional.

Section 281. KRS 134.805 is amended to read as follows:

(1) The county clerk shall be allowed by the *Department of* Revenue~~[Cabinet]~~, for collecting state ad valorem taxes on motor vehicles, a commission of four percent (4%) on state taxes collected.

(2) The county clerk shall be allowed by the county treasurer, for collecting county and special district ad valorem taxes on motor vehicles, a commission of four percent (4%) on county and special taxes collected.

(3) The county clerk shall be allowed a commission of four percent (4%) of the school district taxes collected.

(4) Effective January 1, 1985, the county clerk shall be allowed a commission of four percent (4%) of the city or urban-county government taxes collected.

(5) (a) For the convenience and benefit of the Commonwealth's citizens and to maximize ad valorem tax collections, county clerks shall be responsible for causing the preparation and mailing of a notice of ad valorem taxes due to the January 1 owner, as defined in KRS 186.010(7)(a) and (c), of each motor vehicle no later than forty-five (45) days prior to the ad valorem tax and registration renewal due date in each calendar year.

(b) When a vehicle is transferred in any year before the ad valorem taxes on that vehicle have been paid, a notice of taxes due shall be sent within ten (10) working days after the date of transfer or notice of transfer to the owner as of January 1 of that year.

(c) When ad valorem taxes on a vehicle become delinquent for sixty (60) days, as defined by KRS 134.810, a second notice shall be sent within ten (10) working days to the January 1 owner of record. The notice shall inform the delinquent owner of the lien provisions provided by KRS 134.810 on all vehicles owned or acquired by the owner of the vehicle at the time the tax liability arose.

(d) These notices shall be calculated, prepared, and mailed first class on behalf of county clerks by the AVIS. Nonreceipt of the notices required herein shall not constitute any defense against applicable penalty, interest, lien fees, or costs recovery.

Section 282. KRS 134.815 is amended to read as follows:

(1) The county clerk shall, by the tenth of each month, report under oath and pay to the state, county, city, urban-county government, school, and special taxing districts all ad valorem taxes on motor vehicles collected by him for the preceding month, less the collection fee of the county clerk, which shall be deducted before payment to the depository. The county clerk shall be required to deposit state collections in a manner consistent with procedures established by the *department*~~[cabinet]~~ for the prompt payment to the state of other state tax moneys collected by the county clerk.

(2) Any county clerk who fails to pay over any taxes collected by him on motor vehicles as required by subsection (1) of this section shall be required to pay a penalty of one percent (1%) for each thirty (30) day period or fraction thereof, plus interest at the legal rate per annum of such taxes.

(3) The county clerk may be granted an extension, not to exceed fifteen (15) days, for filing the monthly report to each district required by this section.

(4) In the event a motor vehicle is registered in a county other than that in which the vehicle had a taxable situs as of the most recent assessment date, the county clerk in the new county of registration shall be charged with collecting the ad valorem taxes due for the state, county, city, urban-county government, school and special tax districts in which the vehicle had situs. The county clerk making such collections shall receive commissions on collections as set out for other collections on motor vehicles.

(5) All moneys collected under this section by a county clerk on motor vehicles which had a taxable situs in another county shall be reported and deposited with the state, after he has deducted the appropriate commissions due from these collections, and such collections shall be distributed to the proper tax district.

(6) The *department*~~[cabinet]~~ shall provide procedures governing receipt and disbursement of all moneys collected under subsections (4) and (5) of this section.

Section 283. KRS 134.825 is amended to read as follows:

The *Department of* Revenue~~[Cabinet]~~ shall be responsible for payment of all expenses related to the development and implementation of computer and administrative systems necessary to carry out the provisions of KRS 134.805, 134.810 and 186A.145 and, further, shall reimburse each state agency involved for all ongoing operational costs, including the calculation, preparation, and mailing of notices of ad valorem property tax due on motor vehicles, incurred by each such agency in administering the provisions of KRS 134.805, 134.810 and 186A.145.

Section 284. KRS 134.990 is amended to read as follows:

(1) Any sheriff who violates subsection (2) of KRS 134.140 shall be fined one hundred dollars ($100) for each offense.

(2) Any person who violates the provisions of KRS 134.150 shall, upon indictment and conviction in the county in which the act was done, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), and be removed from office.

(3) Any sheriff who violates subsection (3) of KRS 134.170 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(4) Any sheriff who violates subsection (2) of KRS 134.200 shall be fined not less than five hundred dollars ($500) for each offense.

(5) Any outgoing sheriff who fails for ten (10) days to comply with the provisions of KRS 134.215 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), and be liable on his bond for any default.

(6) Any sheriff who fails to report as required in KRS 134.300 shall be liable to indictment in the county of his residence, and upon conviction shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(7) Any sheriff who fails to report as provided in KRS 134.320 shall be liable to indictment in the Franklin Circuit Court, and upon conviction shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(8) Any person who willfully fails to comply with any rule or regulation promulgated under subsection (4) of KRS 134.380 shall be fined not less than twenty dollars ($20) nor more than one thousand dollars ($1,000).

(9) Any sheriff who violates subsection (5) of KRS 134.430 shall be fined one hundred dollars ($100) and be liable on his official bond for the damages sustained by any person aggrieved.

(10) Any county attorney who fails to prepare, and any sheriff who fails to serve, the notice provided for in subsection (2) of KRS 134.500 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100).

(11) Any sheriff who intentionally fails to keep his books in an intelligible manner and according to the form prescribed by the *Department of* Revenue~~[Cabinet]~~, or to make the entries required by law, shall be fined not less than fifty dollars ($50) nor more than two hundred dollars ($200) for each offense.

(12) Any person who fails to do an act required, or does an act forbidden, by any provision of this chapter for which no other penalty is provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

Section 285. KRS 135.040 is amended to read as follows:

(1) On the return of "no property found" on an execution issued upon a judgment in favor of the state, the *Department of* Revenue~~[Cabinet]~~ may institute equitable proceedings in the Franklin Circuit Court or any other court of competent jurisdiction, in the name of the state and on the relation of the *commissioner*~~[secretary]~~ of revenue. The choses in action or other equitable estate of the delinquent shall be subjected to the payment of the amount due on any such execution.

(2) On the return to the fiscal court of any tax bill as uncollectible, a like suit may be instituted in the name of the state on the relation of the *commissioner*~~[secretary]~~ of revenue in any court of competent jurisdiction, and the choses in action or other equitable estate of the delinquent may be subjected to the amount due on any such tax bill. In such proceedings attachment may issue and other proceedings may be taken as are authorized on the return of "no property found" on an execution in favor of individuals.

(3) The county attorneys of the respective counties shall assist the *Department of* Revenue~~[Cabinet]~~ in prosecuting the actions mentioned in this section.

(4) No action shall be maintained under the provisions of subsection (1) of this section when the last execution issued has been returned "no property found" more than ten (10) years before the institution of the action, nor shall an action be maintained on the uncollectible tax bill under the provisions of subsection (2) of this section more than five (5) years after the date of the return by the sheriff or collector.

(5) Every person against whom an execution has been returned "no property found" and upon which an equitable action is instituted, as provided in subsection (1) of this section, shall be liable for a penalty of twenty percent (20%) of the amount due on the execution. The penalty may be recovered in the action, with the amount due on the execution. The penalty shall go to the delinquent tax fund provided for under KRS 134.400, unless the county attorney assists in the prosecution, in which case one-half (1/2) shall go to him.

Section 286. KRS 135.050 is amended to read as follows:

(1) The *commissioner*~~[secretary]~~ of revenue shall prosecute diligently the collection of all license fees, omitted license, inheritance, estate, income, excise or franchise taxes, judgments or other moneys, claims or demands due the state from any person.

(2) The *Department of* Revenue~~[Cabinet]~~ may institute legal proceedings to ascertain the amount of tax due under any statute imposing a license, excise or income tax in favor of the state, and to enforce the collection of the amount due and the penalties and interest thereon, and, in the case of a license or excise tax, to enjoin the operation of the business of the delinquent until the tax is paid.

(3) The *Department of* Revenue~~[Cabinet]~~ may, at or after the commencement of an action under subsection (2) of this section to collect the amount of license, excise or income tax due and the penalties and interest thereon, have an attachment against the property of the person liable for the tax or a garnishment of his debtors, without the execution of a bond.

Section 287. KRS 135.060 is amended to read as follows:

(1) Employees of the *Department of* Revenue~~[Cabinet]~~ shall, when directed by the *commissioner*~~[secretary]~~, institute actions in the name of the state, and in the name of any county, school or other taxing district, on relation of the *commissioner*~~[secretary]~~, against any delinquent state, county or district officer or any person to recover taxes or any other money due the state or any county, school or other taxing district.

(2) Employees of the *Department of* Revenue~~[Cabinet]~~ before instituting or causing to be instituted any action that the *commissioner*~~[secretary]~~ is authorized by law to institute, shall file a copy of same with the *commissioner*~~[secretary]~~, with a verified statement of the facts upon which it is based. No action shall be instituted or caused to be instituted by an employee until it is approved and authorized by the *commissioner*~~[secretary]~~.

(3) In all actions brought under subsection (1) of this section in which a judgment is recovered, the party in default shall, in addition to the amount found to be due the state or any county, school or other taxing district, be adjudged to pay a penalty of twenty percent (20%) on the amount due.

Section 288. KRS 135.080 is amended to read as follows:

(1) When an action is brought in the Franklin Circuit Court against a sheriff or clerk, or against the sureties on his official bond, or against his heirs, devisees or representatives, or against any other person required to pay money into the State Treasury or to do any other act required by law to be done in connection with the payment of money into the State Treasury after it has been collected, the *Department of* Revenue~~[Cabinet]~~ shall, twenty (20) days before the trial, mail to the defendant in the action, directed to him at the courthouse of his county, a notice in writing stating the amount judgment will be asked for and the time the court will be held. The *department*~~[cabinet]~~ shall file a copy of this notice, with the name of the person to whom sent and the time when and the place where sent, with the clerk of the court, to be filed by him and kept with the papers in the action.

(2) The court, without further notice to the parties, shall proceed with the action. The *department*~~[cabinet]~~ shall file with the clerk of the court a memorandum of the names of the parties, the amount due from each defaulter against whom judgment is demanded, and a copy of the bond if any. The clerk shall docket the action in the order in which the names stand on the memorandum.

(3) Judgments, when given against the defendants in the cases referred to in this section, shall be for the principal due with interest at the rate of ten percent (10%) per annum from the time the amount was due until paid.

Section 289. KRS 135.090 is amended to read as follows:

If any of the defendants in an action brought under KRS 135.080 shall, upon oath, deny the execution of the bonds or instruments whereby they are sought to be made liable, a jury, if required, shall be impaneled to try the facts. All other facts may be tried by the court. Nothing but a receipt from the State Treasurer for the payment of the taxes or money claimed shall be admitted on the trial, except orders of the court and receipts in pursuance thereof, the records of the *Department of* Revenue~~[Cabinet]~~ and the State Treasurer, and the delinquent list. No tender of payment nor any offset shall be pleaded or given in evidence.

Section 290. KRS 135.100 is amended to read as follows:

(1) Judgments in the name of the state or county against sheriffs and other public collectors, their sureties, or their heirs, devisees or personal representatives, or any of them, shall bind the estate, legal or equitable, of all of the defendants to the judgments from the commencement of the action until satisfied. No execution thereon shall be stayed by replevin or sale on credit, but in all such cases the estate taken in execution shall be sold for money, except that the *Department of* Revenue~~[Cabinet]~~ may, with the consent of the Attorney General, indorse the right to replevy on the execution where the tax is payable to the *department*~~[cabinet]~~, and a like privilege is given to the sheriff, with the consent of the county attorney, when the taxes are payable to the sheriff.

(2) Any officer who makes a false return on such execution shall be subjected to the payment of the whole amount of the execution and costs, in addition to the penalty provided by subsection (3) of KRS 135.990.

(3) No person shall attempt, by any fraudulent execution, conveyance, encumbrance or otherwise, to stop or injure the sale of the estate under the execution.

Section 291. KRS 135.120 is amended to read as follows:

When the property of the defendant in execution, upon a judgment against a defaulting public officer, is encumbered by a previous bona fide mortgage, deed of trust or other encumbrance or prior lien, the officer shall, if no other property is found upon which to levy the execution, levy it upon the encumbered property and return the same. He shall make return of all the facts known to him, giving the date and consideration of the instrument creating the lien, to whom made, when recorded, the evidences of any prior lien, and the names of the parties who claim the same. Proceedings may be instituted by the sheriff or the *Department of* Revenue~~[Cabinet]~~, in the name of the state, in the county where the property is located, to have the property sold, the claims and demands, if just, satisfied, all encumbrances removed, and the proceeds of the sale of the property rightfully applied.

Section 292. KRS 135.130 is amended to read as follows:

(1) If return is made on an execution against a sheriff or other public defaulter to the state and his sureties that there was no sale of personal property for the want of bidders, the *Department of* Revenue~~[Cabinet]~~ may direct the property levied upon to be removed from county to county for sale, as often as may be necessary, the cost of removal to be paid out of the sale of the estate as other costs. The officer who levied the execution may sell the property in any county to which it is so removed. If real property is levied upon, the place of sale may be changed to another county, and the officer may there sell and convey the property as in the county where the levy was made.

(2) The state may have executions in the hands of collecting officers in any number of counties at the same time.

Section 293. KRS 136.030 is amended to read as follows:

(1) Every corporation organized under the laws of this state, or doing business in this state, and domestic life insurance companies, shall by February 15, of each year make a true and correct report to the *Department of* Revenue~~[Cabinet]~~ signed by its president, secretary, treasurer, or other chief officer, giving the names and addresses of residents of this state who hold its outstanding bonds as of January 1 previous thereto, and also the transfer of any of its bonds by residents of this state to nonresidents within thirty (30) days previous to January 1.

(2) Every broker-dealer or his agent doing business in this state pursuant to KRS Chapter 292, shall on or before March 1, each year, as of the preceding January 1, furnish the *Department of* Revenue~~[Cabinet]~~ the following information:

(a) Name and address of all Kentucky residents whose stocks, bonds, or other securities, excluding stocks and mutual funds, are held in a name other than that of the actual owner and which are in the possession of or subject to the control of such broker-dealer or his agent, for the benefit of such actual owner. This shall be construed to include all accounts fully paid;

(b) Name of company by whom bonds or other securities were issued;

(c) Interest rate, maturity date, par value, and number of bonds held, and sufficient information to measure the quantity of other securities; and

(d) Market value as of the previous January 1.

Section 294. KRS 136.050 is amended to read as follows:

(1) Except where otherwise specially provided, all corporations required to make reports to the *Department of* Revenue~~[Cabinet]~~ shall pay all taxes due the state from them into the State Treasury at the same time as natural persons are required to pay taxes, and when delinquent shall pay the same rate of interest and penalties as natural persons who are delinquent.

(2) All state taxes assessed against any corporation under the provisions of KRS 136.120 to 136.200 shall be due and payable as provided in KRS 131.110. All county, city, school, and other taxes so assessed shall be due and payable thirty (30) days after notice of the amount of the tax is given by the collecting officer. The state, county, city, school, and other taxes found to be due on any protested assessment or portion thereof shall begin to bear legal interest on the sixty-first day after the Kentucky Board of Tax Appeals acknowledges receipt of a protest of any assessment or enters an order to certify the unprotested portion of any assessment until paid, except that in no event shall interest begin to accrue prior to January 1 following April 30 of the year in which the report is due. Every corporation so assessed that fails to pay its taxes when due shall be deemed delinquent, a penalty of ten percent (10%) on the amount of the tax shall attach, and thereafter the tax shall bear interest at the tax interest rate as defined in KRS 131.010(6).

Section 295. KRS 136.070 is amended to read as follows:

(1) Every corporation organized under the laws of this state, every corporation having its commercial domicile in this state, and every foreign corporation owning or leasing property located in this state or having one (1) or more individuals receiving compensation in this state, except financial institutions as defined in KRS 136.500, savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only, open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940, production credit associations, insurance companies, including farmers' or other mutual hail, cyclone, windstorm or fire insurance companies, insurers and reciprocal underwriters, public service companies subject to taxation under KRS 136.120, those corporations exempted by Section 501 of the Internal Revenue Code, any property or facility which has been certified as an alcohol production facility as defined in KRS 247.910, any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390, and any other religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit, shall pay to the state an annual license tax of two dollars and ten cents ($2.10) on each one thousand dollars ($1,000) of the capital employed in the business as computed under the provisions of subsections (2) and (3) of this section, subject to the credit provided in subsection (6) of this section.

(2) (a) The term "capital" as used in this section means capital stock, surplus, advances by affiliated companies, intercompany accounts, borrowed moneys or any other accounts representing additional capital used and employed in the business. Accounts properly defined as "capital" in this section shall be reported at the value reflected on financial statements prepared for book purposes as of the last day of the calendar or fiscal year;

(b) "Capital employed," in the case of corporations having property or payroll only in this state, means "capital" as defined above;

(c) "Capital employed," in the case of corporations having property or payroll both within and without this state means "capital" as defined above and as apportioned under subsection (3) of this section;

(d) Property means either real property or tangible personal property which is either owned or leased. Payroll means compensation, paid to one (1) or more individuals, as described in subsection (3) of this section. Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction.

(3) The total capital, as determined under subsection (2) of this section, shall be apportioned as follows:

(a) The total capital shall be multiplied by a fraction, the numerator of which is the property factor plus the payroll factor, plus the sales factor, and the denominator of which is three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll, and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five percent (25%) of the fraction shall be used;

(b) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period; provided, however, that property which has been certified as a pollution control facility as defined in KRS 224.01-300 shall be excluded from the property factor:

1. Property owned by the taxpayer is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero, such property shall be valued by the *department*~~[cabinet]~~ under regulations promulgated by the *department*~~[cabinet]~~. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals, provided that such rental and such subrentals are reasonable. If the *department*~~[cabinet]~~ determines that the annual rental or subrental rate is unreasonable, or if nominal or zero rate is charged, the *department*~~[cabinet]~~ may determine and apply such rental rate as will reasonably reflect the value of the property rented by the taxpayer; and

2. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the *department*~~[cabinet]~~ may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property;

(c) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid or payable everywhere during the tax period. Compensation is paid or payable in this state if:

1. The individual's service is performed entirely within the state;

2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

3. Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state;

(d) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period. Sales of tangible personal property are in this state if:

1. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale;

2. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government; or

3. Sales, other than sales of tangible personal property, are in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(4) If the apportionment provisions of this section do not fairly measure the taxpayer's capital in this state, the taxpayer may petition for or the *department*~~[cabinet]~~ may require:

(a) The exclusion of any one (1) or more of the factors;

(b) The inclusion of one (1) or more additional factors which will fairly measure the taxpayer's capital in this state; or

(c) The employment of any other method to produce an equitable apportionment of the taxpayer's capital.

(5) No corporation required to pay an annual license tax under this section shall pay less than thirty dollars ($30).

(6) Every corporation with a gross income of not more than five hundred thousand dollars ($500,000) shall be entitled to a credit equivalent to one dollar and forty cents ($1.40) per one thousand dollars ($1,000) of the initial three hundred and fifty thousand dollars ($350,000) of capital employed in the business, as computed under the provisions of KRS 136.070(2) and (3).

Section 296. KRS 136.0704 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" means a company approved under KRS 154.26-010 and subject to license tax under KRS 136.070;

(b) "Economic revitalization project" shall have the same meaning as set forth in KRS 154.26-010; and

(c) "Tax credit" means the tax credit allowed in KRS 154.26-090(1)(c)2.

(2) An approved company that entered into a revitalization agreement prior to July 13, 2004, shall:

(a) Compute the company's total license tax due as provided by KRS 136.070; and

(b) Compute the license tax due excluding the capital attributable to an economic revitalization project.

(3) The tax credit shall be the amount by which the tax computed under subsection (2)(a) of this section exceeds the tax computed under subsection (2)(b) of this section; however, the credit shall not exceed the limits set forth in KRS 154.26-090.

(4) The capital attributable to an economic revitalization project shall be determined by a formula approved by the *Department of* Revenue~~[Cabinet]~~.

(5) For an approved company that enters into a revitalization agreement after July 13, 2004, the tax credit shall be negotiated pursuant to KRS 154.26-090, but shall not exceed one hundred percent (100%) of the computed license tax attributable to the location of the economic revitalization project. In no case shall the tax credit exceed the limits set forth in KRS 154.26-090.

(6) The license tax attributable to a revitalization project shall be determined by a formula approved by the *Department of* Revenue~~[Cabinet]~~.

(7) The *Department of* Revenue~~[Cabinet]~~ may promulgate administrative regulations and require the filing of forms designed by the *Department of* Revenue~~[Cabinet]~~ to reflect the intent of KRS 154.26-010 to 154.26-100 and the allowable income tax credit which an approved company may retain under KRS 154.26-010 to 154.26-100.

Section 297. KRS 136.073 is amended to read as follows:

(1) Every open-end registered investment company organized under the laws of this state and registered under the Investment Company Act of 1940 shall on or before the fifteenth day of the fourth month following the close of each fiscal year, if the company operates on a fiscal year basis or calendar year, file a report on forms prescribed by the *Department of* Revenue~~[Cabinet]~~ and pay directly to the State Treasury a tax of two dollars and ten cents ($2.10) for each one thousand dollars ($1,000) of "average net capital" as computed under subsections (2) and (3) of this section.

(2) The term "net capital" as used in this section means capital stock, surplus, borrowed moneys or any other accounts representing capital of the company less the amount of such capital which by said company is invested in Kentucky municipal securities which are obligations issued by the State of Kentucky, its political subdivisions, and the districts, authorities, agencies and instrumentalities of the state and its political subdivisions, the interest on which is exempt from federal and Kentucky income tax.

(3) The term "average net capital" as used in this section means the average of the net capital of the company as shown on financial statements of the company as of the first and last days of the fiscal or calendar year of the company, whichever is applicable.

(4) The *Department of* Revenue~~[Cabinet]~~ shall examine and audit each report as soon as practicable after each report is received. Failure to make reports and pay taxes as provided in this section shall subject the company to the same penalties imposed for such failure on the part of other corporations.

Section 298. KRS 136.076 is amended to read as follows:

(1) As soon as practicable after each return is received, the *department*~~[cabinet]~~ shall examine and audit it. If the amount of tax computed by the *department*~~[cabinet]~~ is greater than the amount returned by the taxpayer, the additional tax shall be assessed and a notice of assessment mailed to the taxpayer by the *department*~~[cabinet]~~ within four (4) years from the date the return was filed, except that in the case of a failure to file a return, or of a fraudulent return, the additional tax may be assessed at any time. The time provided in this section may be extended by agreement between the taxpayer and the *department*~~[cabinet]~~.

(2) For the purpose of subsection (1) of this section, a return filed before the last day prescribed by law for filing the return thereof shall be considered as filed on the last day. For taxable years beginning after December 31, 1993, any extension of time granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

Section 299. KRS 136.090 is amended to read as follows:

(1) Corporations liable to taxation under KRS 136.070 shall file with the *Department of* Revenue~~[Cabinet]~~ each year, on forms prepared by the *department*~~[cabinet]~~, a return signed by the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting officer. This report shall give the name of the corporation; the name of the state or government under the laws of which it is incorporated; the date of incorporation; the place of its principal office in and out of this state; the name and address of its president and secretary; the name and address of its authorized agent or attorney upon whom process may be executed in this state; the name and address of the officer or agent in charge of its business in this state; and the nature and kind of business in which it is engaged.

(2) The report shall also give the total value of all the property owned and used by the corporation; the value of the property owned and used by it in this state; the aggregate amount of business transacted by it during the preceding calendar year or fiscal year; the amount of such business transacted in this state; and such other facts as the *department*~~[cabinet]~~ requires.

Section 300. KRS 136.100 is amended to read as follows:

(1) If the corporation operates on a calendar year basis, the reports required under KRS 136.090 shall be filed on or before April 15 in each year. If the corporation operates on a fiscal year basis, the reports shall be filed on or before the fifteenth day of the fourth month following the close of each fiscal year. The reports shall cover operations for the preceding calendar or fiscal year, as the case may be. Domestic corporations hereafter incorporated, and foreign corporations hereafter becoming the owners of property or transacting business in this state, shall make their reports to the *Department of* Revenue~~[Cabinet]~~ on or before the first filing date succeeding their incorporation or succeeding their becoming the owners of property or transacting business in this state, and shall in all respects be subject to the provisions of KRS 136.070 to 136.100 the same as corporations already in existence.

(2) A corporation may change its reporting period from a calendar year to a fiscal year, or from a fiscal year to a calendar year, by securing written permission from the *department*~~[cabinet]~~. If a corporation so changes its basis of reporting, the first report filed on the new filing date shall cover operations for the period between the close of the old accounting period and the close of the new accounting period. The assessment of value shall be computed in the same manner as on any other return, but the tax due shall be computed on that proportionate part of the assessment that the period between the close of the old accounting period and the close of the new accounting period bears to the entire twelve (12) month period.

(3) In any case where two (2) or more corporations merge, consolidate or otherwise combine into a single corporation after the close of the taxable year, but before the beginning of the succeeding taxable year, all factors used to determine the corporation license tax assessment shall be computed on the basis of the consolidated accounting records of such corporations.

Section 301. KRS 136.120 is amended to read as follows:

(1) Every railway company, sleeping car company, chair car company, dining car company, gas company, water company, ferry company, bridge company, street railway company, interurban electric railroad company, express company, electric light company, electric power company, telephone company, telegraph company, commercial air carrier, air freight carrier, pipeline company, common carrier water transportation company, privately owned regulated sewer company, cable television company, municipal solid waste disposal facility, as defined by KRS 224.01-010(15), where solid waste is disposed by landfilling, railroad car line company, which means any company, other than a railroad company, which owns, uses, furnishes, leases, rents, or operates to, from, through, in, or across this state or any part thereof, any kind of railroad car including, but not limited to, flat, tank, refrigerator, passenger, or similar type car, and every other like company or business performing any public service, except bus line companies, regular and irregular route common carrier trucking companies, and taxicab companies, shall annually pay a tax on its operating property to the state and to the extent the property is liable to taxation shall pay a local tax thereon to the county, incorporated city, and taxing district in which its operating property is located.

(2) The property of the taxpayers shall be classified as operating property, nonoperating tangible property, and nonoperating intangible property. Nonoperating intangible property within the taxing jurisdiction of the Commonwealth shall be taxable for state purposes only at the same rate as the intangible property of other taxpayers not performing public services, and operating property and nonoperating tangible property shall be subject to state and local taxes at the same rate as the tangible property of other taxpayers not performing public services.

(3) The *Department of* Revenue~~[Cabinet]~~ shall have sole power to value and assess all of the property of every corporation, company, association, partnership, or person performing any public service, including those enumerated above and all others to whom this section may apply, whether or not the operating property, nonoperating tangible property, or nonoperating intangible property has heretofore been assessed by the *department*~~[cabinet]~~, and shall allocate the assessment as provided by KRS 136.170, and shall certify operating property liable to local taxation and nonoperating tangible property to the counties, cities, and taxing districts as provided in KRS 136.180. All of the property assessed by the *department*~~[cabinet]~~ pursuant to this section shall be assessed as of December 31 each year for the following year's taxes, and the lien therefor shall attach as of the assessment date. In the case of a taxpayer whose business is predominantly nonpublic service and the public service business in which he is engaged is merely incidental to his principal business, the *department*~~[cabinet]~~ shall in the exercise of its judgment and discretion determine, from evidence which it may have or obtain, what portion of the operating property is devoted to the public service business subject to assessment by the *department*~~[cabinet]~~ under this section and shall require the remainder of the property not so engaged to be assessed by the local taxing authorities.

Section 302. KRS 136.130 is amended to read as follows:

(1) Each corporation included in KRS 136.120(1) shall annually, between December 31, and April 30, following, make and deliver to the *Department of* Revenue~~[Cabinet]~~ a report in such form as the *department*~~[cabinet]~~ may prescribe, showing such of the following facts as may be requested by the *department*~~[cabinet]~~: The name and principal place of business of the corporation; the kind of business engaged in; the amount of capital stock, preferred and common, and the number of shares of each; the amount of stock paid up; the par and fair cash value of the stock; the highest price at which the stock was sold at a bona fide sale within twelve (12) months next before December 31 of the year for which the report is required to be made; the amount of surplus funds and undivided profits; the total amount of indebtedness as principal; the cost and year acquired of all operating property owned, operated, or leased, including property under construction, property held for future use, and the depreciation attributable thereto as of December 31, the cost and year acquired of all nonoperating tangible property and the depreciation attributable thereto; the cost and market value as of December 31 of all intangible property; the value of all other assets; the operating and nonoperating revenues, the net utility operating income before and after depreciation and before and after income taxes, the net income from operations, the net income including income from investments, and income from all other sources for twelve (12) months next preceding December 31 of the year for which the report is required; the amount and kind of operating property in this state, and where situated in each county, city, and taxing district, assessed or liable to

assessment in this state, and the fair cash value thereof, the length and description of all the lines operated, owned, or leased in this state and in each county, city, and taxing district; and such other facts as the *department*~~[cabinet]~~ may require.

(2) The report shall cover the period of twelve (12) months ending December 31. The *department*~~[cabinet]~~ may change the date of the reports to conform to any change in date established by federal regulations.

(3) If any corporation is in the hands or under the control of a receiver or other person, by order of a court, the receiver or other person shall make the reports required by this section and by KRS 136.140.

(4) All public service corporations included in KRS 136.120 shall file with the report required by subsection (1) of this section a copy of all reports to their stockholders and a complete copy of their report to the Kentucky regulating authority for the year ending December 31.

(5) The *Department of* Revenue~~[Cabinet]~~ may grant an extension of thirty (30) days to file the public service property tax return when, in its judgment, good cause exists. The *department*~~[cabinet]~~ shall keep a record of every extension and the taxpayer shall attach a copy of the approved extension to his return when filed.

(6) A taxpayer may be granted a thirty (30) day extension for filing the public service company property tax return if it requests the extension before the due date of the return and includes with the extension request a report of any increases or decreases in property of fifty thousand dollars ($50,000) or more in any taxing district.

Section 303. KRS 136.132 is amended to read as follows:

(1) Each corporation included in KRS 136.120(1) shall annually, when filing the report required by KRS 136.130, provide to the *Department of* Revenue~~[Cabinet]~~ a listing of all motor vehicles and trailers operated, owned, or leased by it which are subject to registration in Kentucky with the latest registration or certificate number issued to such motor vehicle or trailer and the make, model and year of each vehicle.

(2) The *Department of* Revenue~~[Cabinet]~~ shall, when valuing the property of corporations or companies assessable by it, value the vehicles at no less than the value used by the property valuation administrator.

(3) In certifying the assessment of property of public service companies subject to local taxation, the *department*~~[cabinet]~~ shall separately certify the amount of the assessment representing the valuation of motor vehicles and trailers or an apportionment thereof.

Section 304. KRS 136.140 is amended to read as follows:

(1) If a public service corporation, foreign or domestic, operates and conducts its business in other states as well as in this state, the report required by KRS 136.130 shall show the following additional facts: the cost and year acquired of the operating property operated, owned, or leased, including property under construction, property held for future use, and depreciation attributable thereto for the property in this state as of December 31; and such other facts as the *department*~~[cabinet]~~ may require.

(2) All public service corporations included in KRS 136.120 shall file with the report required by KRS 136.130 and this section a copy of all reports to their stockholders and a complete copy of their report to the federal regulating agency if their operations are interstate.

Section 305. KRS 136.150 is amended to read as follows:

If any corporation fails to report as required by KRS 136.130 and 136.140 on or before April 30 of each year, or May 30 if the *Department of* Revenue~~[Cabinet]~~ has granted the corporation an extension, the *Department of* Revenue~~[Cabinet]~~ shall ascertain the required facts and values in such manner and by such means as it deems proper, at the cost of the corporation failing to make the report.

Section 306. KRS 136.160 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~ shall determine the fair cash value of the operating property of a domestic public service corporation as a unit. The fair cash value of the operating property shall be equalized.

(2) The *Department of* Revenue~~[Cabinet]~~ shall determine the fair cash value of the operating property of a foreign public service corporation or a domestic public service corporation with property or routes in Kentucky and outside Kentucky as a unit according to subsection (1). The fair cash value of the operating property everywhere valued as a unit shall be apportioned to Kentucky based on the average of the property factor and the business factor. The fair cash value of the operating property in Kentucky shall be equalized.

(a) The property factor shall fairly reflect the amount of operating property operated, owned, or leased in Kentucky compared to the total amount of operating property operated, owned, or leased everywhere. An allocable portion of the rolling stock, aircraft, and watercraft of a common carrier shall be included in the operating property, operated, owned, or leased in Kentucky. This factor may be a single factor or an average of several factors.

(b) The business factor shall fairly reflect the utilization of the operating property operated, owned, or leased in Kentucky compared to the utilization of the operating property operated, owned, or leased everywhere. This factor may be a single factor or an average of several factors.

(3) The nonoperating tangible and nonoperating intangible property of public service corporations whose operating property is valued according to either subsection (1) or (2) shall be valued by the *Department of* Revenue~~[Cabinet]~~ in the same manner and according to the same standards as if this property were valued by the property valuation administrator in the county where the property has a taxable situs.

Section 307. KRS 136.170 is amended to read as follows:

The *Department of* Revenue~~[Cabinet]~~ shall allocate the assessed value of the operating property in this state among the counties, cities, and other taxing districts. The location of operating property and the proportion which the length of line or route operated in such taxing district bears to the total length of lines or route operated in this state shall be considered in this allocation and such other reasonable evidence of value as the *Department of* Revenue~~[Cabinet]~~ may by regulations prescribe; provided, however, that the assessed value of nonoperating tangible property shall be allocated to the county, city, or other taxing district where the property is situated.

Section 308. KRS 136.180 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~ shall, immediately after fixing the assessed value of the operating property and other property of a public service corporation for taxation, notify the corporation of the valuation and the amount of assessment for state and local purposes. When the valuation has been finally determined, the *department*~~[cabinet]~~ shall immediately certify, unless otherwise specified, to the county clerk of each county in which any of the operating property or nonoperating tangible property assessment of the corporation is liable to local taxation, the amount of property liable for county, city, or district tax.

(2) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

(3) The *Department of* Revenue~~[Cabinet]~~ shall compute annually a multiplier for use in establishing the local tax rate for the operating property of railroads or railway companies that operate solely within the Commonwealth. The applicable local tax rates on the operating property shall be adjusted by the multiplier. The multiplier shall be calculated by dividing the statewide locally taxable business tangible personal property by the total statewide business tangible personal property.

(4) The *Department of* Revenue~~[Cabinet]~~ shall annually calculate an aggregate local rate for each local taxing district to be used in determining local taxes to be collected for railroad carlines. The rate shall be the statewide tangible tax rate for each type of local taxing district multiplied by a fraction, the numerator of which is the commercial and industrial tangible property assessment subject to full local rates and the denominator of which is the total commercial and industrial tangible personal property assessment. Effective January 1, 1994, state and local taxes on railroad carline property shall become due forty-five (45) days from the date of notice and shall be collected directly by the *Department of* Revenue~~[Cabinet]~~. The local taxes collected by the *Department of* Revenue~~[Cabinet]~~ shall be distributed to each local taxing district levying a tax on railroad carlines based on the statewide average rate for each type of local taxing district. However, prior to distribution any fees owed to the *Department of* Revenue~~[Cabinet]~~ by any local taxing district under the provisions of subsection (4) of this section shall be deducted.

(5) The certification of valuation shall be filed by each county clerk in his office, and shall be certified by the county clerk to the proper collecting officer of the county, city, or taxing district for collection. Any district which has the value certified by the *department*~~[cabinet]~~ shall pay an annual fee to the *department*~~[cabinet]~~ which represents an allocation of *department*~~[cabinet]~~ operating and overhead expenses incurred in generating

the valuations. This fee shall be determined by the *department*~~[cabinet]~~ and shall apply to valuations for tax periods beginning on or after December 31, 1981.

Section 309. KRS 136.181 is amended to read as follows:

Boats, tugs, barges, and other watercraft of any nonresident person, corporation, partnership, or any other business association whose route or system is partly within this state and partly within another state or states, shall be valued by the *Department of* Revenue~~[Cabinet]~~ for purposes of taxation and shall be assessed as of January 1 each year by the *Department of* Revenue~~[Cabinet]~~; and the *department*~~[cabinet]~~ shall fairly divide, allocate, and certify such assessments to each county, city, town, or other taxing district within this state, within or through which such route or system is operated, the division, allocation, and certification to be determined in the following manner:

(1) The proportion of the value of the property which the length of the lines or route operated in this state bears to the total length of lines or route operated in this state and elsewhere, shall be considered in fixing the value of the property for taxation in this state. Any other reasonable evidence of value shall be considered in fixing the value, but such evidence must be prescribed by *department*~~[cabinet]~~ regulations;

(2) After ascertaining the portion of the system valuation of such property attributable to this state, the *Department of* Revenue~~[Cabinet]~~ shall allocate the value of the property among the counties, cities, towns, and other taxing districts. The proportion which the length of line or route operated in that jurisdiction or taxing district bears to the total length of lines or route operated in this state shall be considered in this allocation and such other reasonable evidence of value as the *Department of* Revenue~~[Cabinet]~~ may by regulations prescribe.

Section 310. KRS 136.182 is amended to read as follows:

On or before March 1, 1955, and each year thereafter, each nonresident person, corporation, partnership or other business association owning or operating boats, tugs, barges, or other watercraft whose route or system is partly within this state and partly within another state or states, shall on forms provided by the *Department of* Revenue~~[Cabinet]~~ provide the *Department of* Revenue~~[Cabinet]~~ with a detailed description of all such property as well as a detailed description of the entire route or system traversed and such other information as the *Department of* Revenue~~[Cabinet]~~ may by regulation prescribe.

Section 311. KRS 136.183 is amended to read as follows:

The taxes on the above property shall become due at the same time and shall be subject to the same discount and penalties as provided by KRS 134.020, and shall be collected in the same manner as taxes on other tangible property; except that the state tax on such property shall be collected directly by the *Department of* Revenue~~[Cabinet]~~.

Section 312. KRS 136.184 is amended to read as follows:

Any taxpayer who has been assessed by the *Department of* Revenue~~[Cabinet]~~ in the manner outlined above shall have thirty (30) days from the date of the *department's*~~[cabinet's]~~ notice of the tentative assessment in which to protest and ask for a change thereof in the manner provided by KRS 131.110.

Section 313. KRS 136.186 is amended to read as follows:

When the *Department of* Revenue~~[Cabinet]~~ has made a final determination as to the valuation of any such property owned or operated by such nonresident person, corporation, partnership or other business association, it shall immediately certify the amount thereof to the county clerk of each county in which any such property is liable for taxation. The certification shall be filed by each county clerk in his office and the county clerk shall certify to the proper collecting officer of the county, city, town, or taxing district for collection.

Section 314. KRS 136.1873 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 132.487, trucks, trailers, tractors, semitrailers, and buses of any person, corporation, partnership, or any other business association whose route or system is partly within this state and partly within another state or states, shall be assessed by the *Department of* Revenue~~[Cabinet]~~ for purposes of taxation as of January 1 each year.

(2) The proportion of miles operated in this state compared to the total miles operated everywhere shall be considered in fixing the value of the property for taxation. Other reasonable evidence shall be considered in fixing the value. However, pick-up and delivery vehicles operating from a terminal within this state or vehicles which do not leave this state in the normal course of business shall not be valued on an apportioned basis.

Section 315. KRS 136.1875 is amended to read as follows:

On or before April 15, 1991, and each year thereafter, each person, corporation, partnership, or other business association owning or operating trucks, tractors, trailers, semitrailers, and buses whose route or system is partly within this state and partly within another state or states, shall on forms provided by the *Department of* Revenue~~[Cabinet]~~ provide the *department*~~[cabinet]~~ with a detailed description of all its vehicles operating within this state along with the necessary mileage data to be used in apportioning the value.

Section 316. KRS 136.1877 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~ shall immediately, after fixing the assessed value of the trucks, tractors, trailers, semitrailers, and buses, notify the taxpayer of the valuation determined. Any taxpayer who has been assessed by the *department*~~[cabinet]~~ in the manner outlined in KRS 136.1873 shall have forty-five (45) days from the date of the *department's*~~[cabinet's]~~ notice of the tentative assessment to protest as provided by KRS 131.110.

(2) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

(3) The state and local taxes on the property are due forty-five (45) days from the date of notice and shall be collected directly by the *Department of* Revenue~~[Cabinet]~~.

(4) The *Department of* Revenue~~[Cabinet]~~ shall annually calculate an aggregate local rate to be used in determining the local taxes to be collected. The rate shall be the statewide average motor vehicle tax rate for each type of local taxing district multiplied by a fraction, the numerator of which is the commercial and industrial tangible personal property assessment subject to full local rates and the denominator of which is the total commercial and industrial tangible personal property assessment.

(5) The local taxes collected by the *Department of* Revenue~~[Cabinet]~~ shall be distributed to each local taxing district levying a tax on motor vehicles based on the statewide average rate for each type of local taxing district. However, prior to distribution any fees owed to the *Department of* Revenue~~[Cabinet]~~ by any local taxing district under the provisions of KRS 136.180(5) shall be deducted.

Section 317. KRS 136.190 is amended to read as follows:

(1) The superintendent of schools in each district in which any individual, group of individuals or corporation, operates public utility or other franchise taxpaying property assessed under KRS 136.120 shall, on or before the first day of January, 1957, furnish to the county clerk of the county in which the district is situated, to each franchise taxpayer within the district, and to the *Department of* Revenue~~[Cabinet]~~, the boundary of his school district. The superintendent of schools in each district in which any franchise-paying corporation, individual, or group of individuals operates shall, on or before the first day of January, 1958, and each year thereafter, furnish to the county clerk, to each franchise taxpayer within the district, and to the *Department of* Revenue~~[Cabinet]~~, any changes made in the boundary of his school district during the immediately preceding twelve (12) months.

(2) The engineer of cities of the first class and the city clerk of cities of the second, third, fourth, fifth, and sixth classes shall notify the county clerk, each franchise taxpayer within the city, and the *Department of* Revenue~~[Cabinet]~~ of their boundaries in the same manner as required of the superintendent of schools in subsection (1).

(3) The responsible governing official or the chairman of the governing body of any taxing district other than the county, school district, or city shall notify the county clerk, each franchise taxpayer within the district, and the *Department of* Revenue~~[Cabinet]~~ of their boundaries in the same manner as required of the superintendent of schools in subsection (1).

Section 318. KRS 136.290 is amended to read as follows:

(1) Every federally or state chartered savings and loan association, savings bank, and other similar institutions operating solely in Kentucky shall, during January of each year, file with the *Department of* Revenue~~[Cabinet]~~ a report containing such information and in such form as the *department*~~[cabinet]~~ may require.

(2) The *department*~~[cabinet]~~ shall fix the total value, as of January 1 of each year, of the capital of each financial institution included in subsection (1) of this section. Capital shall include certificates of deposit, savings accounts, demand deposits, undivided profits, surplus, and general reserves, excepting the share of borrowing

members where the amount borrowed equals or exceeds the amount paid in by those members. For Agricultural Credit Associations chartered by the Farm Credit Administration, capital shall be computed by deducting the book value of the association's investment in any other wholly owned institution chartered by the Farm Credit Administration that is either subject to the tax imposed by KRS 136.300 or 136.310 or that is exempt from state taxation by federal law. The *department*~~[cabinet]~~ shall immediately notify each institution of the value so fixed.

Section 319. KRS 136.310 is amended to read as follows:

(1) Every federally or state chartered savings and loan association, savings bank, and other similar institution authorized to transact business in this state, with property and payroll within and without this state, shall, during January of each year, file with the *Department of* Revenue~~[Cabinet]~~ a report containing information and in such form as the *department*~~[cabinet]~~ may require.

(2) The *Department of* Revenue~~[Cabinet]~~ shall fix the fair cash value, as of January 1 of each year, of the capital attributable to Kentucky in each financial institution included in subsection (1) of this section. The methodology employed by the *department*~~[cabinet]~~ shall be a three (3) step process as follows:

(a) The total value of deposits maintained in Kentucky less any amounts where the amount borrowed equals or exceeds the amount paid in by those members.

(b) The Kentucky apportioned value of capital shall include undivided profits, surplus, general reserves, and paid-up stock. For Agricultural Credit Associations chartered by the Farm Credit Administration, capital shall be computed by deducting the book value of the association's investment in any other wholly owned institution chartered by the Farm Credit Administration that is either subject to the tax imposed by KRS 136.300 or this section or that is exempt from state taxation by federal law. The Kentucky value of capital shall be determined by a fraction, the numerator of which is the receipts factor plus the outstanding loan balance factor plus the payroll factor, and the denominator of which is three (3).

(c) The values determined in steps (a) and (b) of this subsection shall be added together to determine total Kentucky capital and then reduced by the influence of ownership in tax-exempt United States obligations to determine Kentucky taxable capital. The influence of tax-exempt United States obligations is to be determined from the reports of condition filed with the applicable supervisory agency as follows: the average amount of tax-exempt United States obligations for the calendar year, over the average amount of total assets for the calendar year multiplied by total Kentucky capital. The *department*~~[cabinet]~~ shall immediately notify each institution of the value so fixed.

(3) The receipts factor specified in subsection (2)(b) of this section is a fraction, the numerator of which is all receipts derived from loans and other sources negotiated through offices or derived from customers in Kentucky, and the denominator of which is total business receipts for the preceding calendar year.

(4) The outstanding loan balance factor specified in subsection (2)(b) of this section is a fraction, the numerator of which is the average balance of outstanding loans negotiated from offices or made to customers in Kentucky. The denominator is the average balance of all outstanding loans. The average outstanding loan balance is determined by adding the outstanding loan balance at the beginning of the preceding calendar year to the outstanding loan balance at the end of the preceding calendar year and dividing by two (2). However, if the yearly beginning balance and ending balance results in an inequitable factor, the average outstanding loan balance may be computed on a monthly average balance.

(5) The payroll factor specified in subsection (2)(b) of this section shall be determined for the preceding calendar year under the provisions of KRS 141.120(8)(b) and regulations promulgated thereunder.

(6) By July 1 succeeding the filing of the report as provided in subsection (1) of this section, each financial institution included in subsection (1) of this section shall pay directly into the State Treasury a tax of one dollar ($1) for each one thousand dollars ($1,000) paid in on its Kentucky taxable capital as fixed in subsection (2)(c) of this section. The institution shall not be required to pay local taxes upon its capital stock, surplus, undivided profits, notes, mortgages, or other credits, and the tax provided by this section shall be in lieu of all taxes for state purposes on intangible property of the institution, nor shall any depositor of the institution be required to list his deposits for taxation under KRS 132.020. Failure to make reports and pay taxes as provided in this section shall subject the institution to the same penalties imposed for such failure on the part of the other corporations.

(7) If a financial institution included in subsection (1) of this section selects, it may deduct taxes imposed in subsection (6) of this section from the dividends paid or credited to a nonborrowing shareholder.

(8) Every Agricultural Credit Association chartered by the Farm Credit Administration being authorized to transact business in Kentucky but having no employees located within or without the state shall be subject to the same tax imposed pursuant to either KRS 136.300 or this section as that imposed upon its wholly owned Production Credit Association subsidiary. For purposes of computing Kentucky apportioned value of capital pursuant to subsection (2) of this section, those Agricultural Credit Associations subject to the tax imposed by this section shall utilize that Kentucky apportionment fraction computed and utilized by its wholly owned Production Credit Association subsidiary for the same report period.

Section 320. KRS 136.320 is amended to read as follows:

(1) Each life insurance company incorporated under the laws of and doing business in Kentucky shall value as of January 1 and report to the *Department of* Revenue~~[Cabinet]~~ by April 1 each year, on forms prescribed by the *Department of* Revenue~~[Cabinet]~~, the following:

(a) The fair cash value of the company's intangible personal property, hereinafter referred to as "capital," consisting of all money in hand, shares of stock, notes, bonds, accounts, and other credits, exclusive of due and deferred premiums, whether secured by mortgage, pledge, or otherwise, or unsecured.

(b) The fair cash value of the company's intangible personal property exempt from taxation by law.

(c) The aggregate amount of the company's reserves, reduced by the amount of due and deferred premiums, maintained in accordance with the applicable provisions of KRS 304.6-040 and 304.6-130 to 304.6-180, on all outstanding policies and contracts supplementary thereto.

(d) Other information as may be required by the *Department of* Revenue~~[Cabinet]~~ to accurately determine the fair cash value of each company's "taxable capital" and "taxable reserves."

(2) Based on information supplied by each company and other information that may be available, the *Department of* Revenue~~[Cabinet]~~ shall value each company's "taxable capital" and "taxable reserves" as follows:

(a) "Taxable capital" shall be determined by deducting "taxable reserves" from "capital," less exempt intangible personal property.

(b) "Taxable reserves" shall be determined by multiplying the aggregate amount of reserves as computed in subsection (1)(c) of this section by the percentage determined by dividing "capital," less exempt intangible personal property, by "capital," including exempt intangible personal property.

(3) (a) An annual tax for state purposes shall be imposed against the fair cash value of "taxable capital" for calendar years beginning before 2000, at a rate of seventy cents ($0.70) on each one hundred dollars ($100).

(b) An annual tax for state purposes shall be imposed against every company making an election pursuant to KRS 136.335 to be taxed under this section, against the fair cash value of taxable capital for calendar years beginning in 2000 as follows:

1. For calendar year 2000, fifty-six cents ($0.56) on each one hundred dollars ($100);

2. For calendar year 2001, forty-two cents ($0.42) on each one hundred dollars ($100);

3. For calendar year 2002, twenty-eight cents ($0.28) on each one hundred dollars ($100);

4. For calendar year 2003, fourteen cents ($0.14) on each one hundred dollars ($100); and

5. For calendar year 2004 and each calendar year thereafter, one tenth of one cent ($0.001) on each one hundred dollars ($100).

(c) An annual tax for state purposes shall be imposed at a rate of one-tenth of one cent ($0.001) on each one hundred dollars ($100) of the fair cash value of "taxable reserves".

(d) Beginning in tax year 2004 an insurer may offset the tax liability imposed under this subsection against the tax liability imposed under subsection (4) of this section.

(4) For calendar year 2000, and each calendar year thereafter, every company subject to the tax imposed by subsection (3) of this section, and making an election pursuant to KRS 136.335 to be taxed under this section, shall pay the following rates of tax upon each one hundred dollars ($100) of premium receipts:

(a) For calendar year 2000, thirty-eight cents ($0.38);

(b) For calendar year 2001, seventy-two cents ($0.72);

(c) For calendar year 2002, one dollar and two cents ($1.02);

(d) For calendar year 2003, one dollar and twenty-eight cents ($1.28); and

(e) For calendar year 2004 and each calendar year thereafter, one dollar and fifty cents ($1.50).

Every company subject to the tax imposed by this subsection shall, by March 1 of each year, return to the *Department of* Revenue~~[Cabinet]~~ a statement under oath of all premium receipts on business done in this state during the preceding calendar year or since the last return was made. "Premium receipts" includes single premiums, premiums received for original insurance, premiums received for renewal, revival, or reinstatement of the policies, annual and periodical premiums, dividends applied for premiums and additions, and all other premium payments received on policies that have been written in this state, or on the lives of residents of this state, or out of this state on business done in this state, less returned premiums. No deduction shall be made for dividends on life insurance but dividends on accident and health insurance policies may be deducted.

(5) The taxes imposed under subsections (3) and (4) of this section shall be in lieu of all excise, license, occupational, or other taxes imposed by the state, county, city, or other taxing district, except as provided in subsections (6) and (7) of this section.

(6) The county in which the principal office of the company is located may impose a tax of fifteen cents ($0.15) on each one hundred dollars ($100) of "taxable capital."

(7) The city in which the principal office of the company is located may impose a tax of fifteen cents ($0.15) on each one hundred dollars ($100) of "taxable capital."

(8) The *Department of* Revenue~~[Cabinet]~~ shall by September 1 each year bill each company for the state taxes. It shall immediately certify to the county clerk of the county in which the principal office of the company is located the value of "taxable capital" subject to local taxation. The county clerk shall prepare and deliver a bill to the sheriff for collection of taxes collectible by the sheriff and shall certify the value to all other collecting officers of districts authorized to levy a tax.

(9) Each company's real and tangible personal property shall be subject to taxation at fair cash value by the state, county, school, and other taxing districts in which the property is located in the same manner and at the same rates as all other property of the same class.

(10) Taxes on property subject to taxation under this section shall be subject to the same discount and penalties as provided in KRS 134.020 and shall be collected in the same manner as taxes on property locally assessed, except that the state tax on the "taxable capital" and "taxable reserves" shall be collected directly by the *Department of* Revenue~~[Cabinet]~~.

(11) Any taxpayer subject to taxation under this section may protest in the manner provided in KRS 131.110.

Section 321. KRS 136.330 is amended to read as follows:

(1) Every life insurance company doing business in this state, other than fraternal assessment life insurance companies, shall, by March 1 of each year, return to the *Department of* Revenue~~[Cabinet]~~ a statement under oath of all premium receipts on business done in this state during the preceding calendar year or since the last return was made. "Premium receipts" includes single premiums, annuity premiums, premiums received for original insurance, premiums received for renewal, revival or reinstatement of the policies, annual and periodical premiums, dividends applied for premiums and additions, and all other premium payments received on policies that have been written in this state, or on the lives of residents of this state, or out of this state on business done in this state, less returned premiums. No deduction shall be made for dividends on life insurance or annuity policies, but dividends on accident and health insurance policies may be deducted. Premium receipts shall not include annuity premiums or annuity dividends beginning in calendar year 2000.

(2) (a) An annual tax on premium receipts shall be imposed against every company making a return under this subsection for calendar years beginning before 2000 at a rate of two dollars ($2) upon each one hundred dollars ($100) of premium receipts.

(b) An annual tax on premium receipts shall be imposed against every company making an election pursuant to KRS 136.335 to be taxed under this section, and every company making a return under this section, for calendar years beginning in 2000 as follows:

1. For calendar year 2000, one dollar and ninety cents ($1.90) upon each one hundred dollars ($100) of premium receipts;
2. For calendar year 2001, one dollar and eighty cents ($1.80) upon each one hundred dollars ($100) of premium receipts;
3. For calendar year 2002, one dollar and seventy cents ($1.70) upon each one hundred dollars ($100) of premium receipts;
4. For calendar year 2003, one dollar and sixty cents ($1.60) upon each one hundred dollars ($100) of premium receipts; and
5. For calendar year 2004 and each calendar year thereafter, one dollar and fifty cents ($1.50) on each one hundred dollars ($100) of premium receipts.

(3) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 shall not be subject to taxation under this section.

Section 322. KRS 136.335 is amended to read as follows:

Beginning with calendar year 2000, every life insurance company incorporated under the laws of and doing business in Kentucky shall make an irrevocable election whether to be taxed under the provisions of KRS 136.320 or 136.330. For insurance companies incorporated under the laws of and doing business in Kentucky, prior to January 1, 2000, the election shall be filed with the commissioner of insurance and the *commissioner*~~[secretary]~~ of the *Department of* Revenue~~[Cabinet]~~ on or before January 1, 2000. For insurance companies applying for a certificate to do business in Kentucky as a domestic life insurance company, after January 1, 2000, the election shall be filed with the company's initial application for certificate of authority to do business in Kentucky.

Section 323. KRS 136.340 is amended to read as follows:

(1) Every stock insurance company, other than life, doing business in this state shall, on or before the first day of March of each year, return to the *Department of* Revenue~~[Cabinet]~~ a statement under oath of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, on property or risks in this state during the preceding calendar year or since the last returns were made, including amounts received for reinsurance on Kentucky risks from unauthorized companies, and shall at the same time pay a tax of two dollars ($2) upon each one hundred dollars ($100) of such amounts paid to the company, less amounts returned on canceled policies and policies not taken.

(2) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 shall not be subject to taxation under this section.

Section 324. KRS 136.350 is amended to read as follows:

(1) All mutual companies other than life doing business under this law shall pay to the *Department of* Revenue~~[Cabinet]~~ on or before the first day of March in each year, a tax of two percent (2%) of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, including amounts paid for membership or policy dues or fees, on property or risks in this state during the preceding calendar year, including amounts received for reinsurance on Kentucky risks from unauthorized companies.

(2) In addition to the foregoing tax, mutual insurance companies and Lloyd's insurers shall pay an annual tax as prescribed for stock insurance companies by KRS 136.360 and for like purposes.

(3) In computing premiums upon which tax is to be paid there shall be deducted, in both direct and reinsurance business, return premiums on canceled policies and policies not taken, and dividends paid or credited to policyholders.

(4) The provisions of this section shall not apply to domestic mutual companies, cooperative or assessment fire insurance companies.

(5) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 and 18A.228 shall not be subject to taxation under this section.

Section 325. KRS 136.360 is amended to read as follows:

Every stock insurer other than life doing business in this state shall pay to the *Department of* Revenue~~[Cabinet]~~ on or before the first day of March of each year, for the purpose of defraying the expenses authorized by KRS Chapter 227,

and KRS Chapter 304, Subtitle 24, three-fourths of one percent (0.75%) of all amounts paid to such insurance company or its representative, whether such payments are designated as premiums or otherwise, during the previous calendar year for fire insurance and that portion of the premium reasonably allocable to insurance against the hazard of fire included in other coverages other than life and disability insurances. In computing such amounts there shall be deducted amounts refunded on policies canceled or not taken, and dividends paid or credited to policyholders. All amounts so collected shall be deposited in the general expenditure fund in the State Treasury.

Section 326. KRS 136.370 is amended to read as follows:

Each attorney, for the exchange of reciprocal or interinsurance contracts, under KRS Chapter 304, shall pay to the *Department of* Revenue~~[cabinet]~~ on or before March 1 of each year a tax of two percent (2%) of the gross premiums or deposits collected from subscribers in this state during the preceding calendar year, less all amounts returned to subscribers or accredited to their account as savings. In addition, the attorney shall pay an annual premium tax of three-fourths of one percent (0.75%) of all amounts as prescribed for every stock insurer by and for the purposes specified in KRS 136.360.

Section 327. KRS 136.390 is amended to read as follows:

(1) All associations of underwriters authorized under KRS 304.3-040, 304.3-140, 304.28-010, 304.28-030, 304.28-040, and 304.28-050, and their representatives, shall make the same reports as are required of foreign stock insurance companies and their representatives transacting the same or similar kinds of insurance business in this state, and shall pay the same taxes as are required to be paid by such companies.

(2) All foreign mutual assessment companies, associations, individual firms, underwriters or Lloyd's, having resident members doing business in this state, who shall enter into contracts of insurance with each other or into agreements to indemnify each other against losses by fire, lightning, windstorm or other casualties for which there is no premium charged or collected at the time insurance is made, shall be deemed to be doing an insurance business in this state, and shall annually, by July 30, pay to the *Department of* Revenue~~[Cabinet]~~ a license tax of two dollars ($2) upon each one hundred dollars ($100) of assessments paid or collected in any one (1) year. Each resident member shall be liable to the state for the license tax and all interest and penalties.

(3) No person shall fail or refuse to make a report giving all the data and information necessary to determine the amount of revenue due under subsection (2) of this section, or fail to make the report provided for in subsection (2) of this section, or fail to pay the tax due thereon.

Section 328. KRS 136.392 is amended to read as follows:

(1) (a) Every domestic, foreign, or alien insurer, other than life and health insurers, which is either subject to or exempted from Kentucky premium taxes as levied pursuant to the provisions of either KRS 136.340, 136.350, 136.370, or 136.390, shall charge and collect a surcharge of one dollar and fifty cents ($1.50) upon each one hundred dollars ($100) of premium, assessments, or other charges, except for those municipal premium taxes, made by it for insurance coverage provided to its policyholders, on risk located in this state, whether the charges are designated as premiums, assessments, or otherwise. The premium surcharge shall be collected by the insurer from its policyholders at the same time and in the same manner that its premium or other charge for the insurance coverage is collected. The premium surcharge shall be disclosed to policyholders pursuant to administrative regulations promulgated by the commissioner of insurance. However, no insurer or its agent shall be entitled to any portion of any premium surcharge as a fee or commission for its collection. On or before the twentieth day of each month, each insurer shall report and remit to the *Department of* Revenue~~[Cabinet]~~, on forms as it may require, all premium surcharge moneys collected by it during its preceding monthly accounting period less any moneys returned to policyholders as applicable to the unearned portion of the premium on policies terminated by either the insured or the insurer. Insurers with an annual liability of less than one thousand dollars ($1,000) for each of the previous two (2) calendar years may report and remit to the *Department of* Revenue~~[Cabinet]~~ all premium surcharge moneys collected on a calendar year basis on or before the twentieth (20th) day of January of the following calendar year. The funds derived from the premium surcharge shall be deposited in the State Treasury, and shall constitute a fund allocated for the uses and purposes of the Firefighters Foundation Program fund (KRS 95A.220 and 95A.262) and the Law Enforcement Foundation Program fund (KRS 15.430).

(b) Effective July 1, 1992, the surcharge rate in paragraph (a) of this subsection shall be adjusted by the *commissioner*~~[secretary]~~ of revenue to a rate calculated to provide sufficient funds for the uses and purposes of the Firefighters Foundation Program fund as prescribed by KRS 95A.220 and 95A.262 and

the Law Enforcement Foundation Program fund as prescribed by KRS 15.430 for each fiscal year. The rate shall be calculated using as its base the number of local government units eligible for participation in the funds under applicable statutes as of January 1, 1994. To allow the *commissioner*~~[secretary]~~ of revenue to calculate an appropriate rate, the secretary for the Public Protection and Regulation Cabinet and the secretary for the Justice Cabinet shall certify to the *commissioner*~~[secretary]~~ of revenue, no later than January 1 of each year, the estimated budgets for the respective funds specified above, including any surplus moneys in the funds, which shall be incorporated into the consideration of the adjusted rate for the next biennium. As soon as practical, the *commissioner*~~[secretary]~~ of revenue shall advise the commissioner of insurance of the new rate and the commissioner *of revenue* shall inform the affected insurers. The rate adjustment process shall continue on a biennial basis.

(2) Within five (5) days after the end of each month, all insurance premium surcharge proceeds deposited in the State Treasury as set forth in this section shall be paid by the State Treasurer into the Firefighters Foundation Program fund trust and agency account and the Law Enforcement Foundation Program fund trust and agency account. The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to KRS 42.190. Moneys deposited to the Law Enforcement Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 15.410 to 15.500, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse. On and after July 1, 1999, moneys in this account shall not lapse. Money deposited to the Firefighters Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 95A.200 to 95A.300, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse, but moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. On and after July 1, 1999, moneys in this account shall not lapse.

(3) Insurance premium surcharge funds collected from the policyholders of any domestic mutual company, cooperative, or assessment fire insurance company shall be deposited in the State Treasury, and shall be paid monthly by the State Treasurer into the Firefighters Foundation Program fund trust and agency account as provided in KRS 95A.220 to 95A.262. However, insurance premium surcharge funds collected from policyholders of any mutual company, cooperative, or assessment fire insurance company which transfers its corporate domicile to this state from another state after July 15, 1994, shall continue to be paid into the Firefighters Foundation Program fund and the Law Enforcement Foundation Program fund as prescribed.

(4) No later than July 1 of each year, the Department of Insurance shall provide the *Department of* Revenue~~[Cabinet]~~ with a list of all Kentucky-licensed property and casualty insurers and the amount of premium volume collected by the insurer for the preceding calendar year as set forth on the annual statement of the insurer. No later than September 1 of each year, the *Department of* Revenue~~[Cabinet]~~ shall calculate an estimate of the premium surcharge due from each insurer subject to the insurance premium surcharge imposed pursuant to this section, based upon the surcharge rate imposed pursuant to this section and the amount of the premium volume for each insurer as reported by the Department of Insurance. The *Department of* Revenue~~[Cabinet]~~ shall compare the results of this estimate with the premium surcharge paid by each insurer during the preceding year, and shall provide the Legislative Research Commission, the Commission on Fire Protection Personnel Standards and Education, the Kentucky Law Enforcement Council, and the Department of Insurance with a report detailing its findings on a cumulative basis. In accordance with KRS 131.190, the *Department of Revenue*~~[cabinet]~~ shall not identify or divulge the confidential tax information of any individual insurer in this report.

Section 329. KRS 136.410 is amended to read as follows:

Every bail bondsman doing business in this Commonwealth shall, on or before the first day of March of each year, return to the *Department of* Revenue~~[Cabinet]~~ a statement of all amounts paid to him or his representatives, as premiums for bail bonds written in the courts of this Commonwealth during the preceding calendar year, or since the last returns were made, and shall at the same time pay a tax of two dollars ($2) upon each one hundred dollars ($100) of such amounts paid to the bail bondsman or his representatives. Amounts received for reimbursement for expenses or court costs are not to be considered as premiums for the purposes of this section.

Section 330. KRS 136.500 is amended to read as follows:

As used in KRS 136.500 to 136.575, unless the context requires otherwise:

(1) "Billing address" means the location indicated in the books and records of the financial institution, on the first day of the taxable year or the date in the taxable year when the customer relationship began, as the address where any notice, statement, or bill relating to a customer's account is mailed;

(2) "Borrower located in this state" means a borrower, other than a credit card holder, that is engaged in a trade or business that maintains its commercial domicile in this state or a borrower that is not engaged in a trade or business;

(3) "Credit card holder located in this state" means a credit card holder whose billing address is in this state;

(4) "*Department*~~[Cabinet]~~" means the *Department of* Revenue~~[Cabinet]~~;

(5) "Commercial domicile" means:

(a) The location from which the trade or business is principally managed and directed; or

(b) The state of the United States or the District of Columbia from which the financial institution's trade or business in the United States is principally managed and directed, if a financial institution is organized under the laws of a foreign country, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

It shall be presumed, subject to rebuttal, that the location from which the financial institution's trade or business is principally managed and directed is the state of the United States or the District of Columbia to which the greatest number of employees are regularly connected or out of which they are working, irrespective of where the services of the employees are performed, as of the last day of the taxable year;

(6) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services that are included in the employee's gross income under the Internal Revenue Code. In the case of employees not subject to the Internal Revenue Code, the determination of whether the payments would constitute gross income to the employees under the Internal Revenue Code shall be made as though the employees were subject to the Internal Revenue Code;

(7) "Credit card" means credit, travel, or entertainment card;

(8) "Credit card issuer's reimbursement fee" means the fee a financial institution receives from a merchant's bank because one (1) of the persons to whom the financial institution has issued a credit card has charged merchandise or services to the credit card;

(9) "Employee" means, with respect to a particular financial institution, "employee" as defined in Section 3121(d) of the Internal Revenue Code;

(10) "Financial institution" means:

(a) A national bank organized as a body corporate and existing or in the process of organizing as a national bank association pursuant to the provisions of the National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on December 31, 1997, exclusive of any amendments made subsequent to that date;

(b) Any bank or trust company incorporated or organized under the laws of any state, except a banker's bank organized under KRS 287.135;

(c) Any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any corporation organized after December 31, 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997; or

(d) Any agency or branch of a foreign depository as defined in 12 U.S.C. sec. 3101, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any agency or branch of a foreign depository established after December 31, 1997, that meets the requirements of 12 U.S.C. sec. 3101 in effect on December 31, 1997;

(11) "Gross rents" means the actual sum of money or other consideration payable for the use or possession of property.

(a) "Gross rents" includes but is not limited to:

1. Any amount payable for the use or possession of real property or tangible property, whether designated as a fixed sum of money or as a percentage of receipts, profits, or otherwise;

2. Any amount payable as additional rent or in lieu of rent, such as interest, taxes, insurance, repairs, or any other amount required to be paid by the terms of a lease or other arrangement; and

3. A proportionate part of the cost of any improvement to real property made by or on behalf of the financial institution which reverts to the owner or lessor upon termination of a lease or other arrangement. The amount to be included in gross rents is the amount of amortization or depreciation allowed in computing the taxable income base for the taxable year. However, where a building is erected on leased land by or on behalf of the financial institution, the value of the land is determined by multiplying the gross rent by eight (8) and the value of the building is determined in the same manner as if owned by the financial institution;

(b) The following are not included in the term "gross rents":

1. Reasonable amounts payable as separate charges for water and electric service furnished by the lessor;

2. Reasonable amounts payable as service charges for janitorial services furnished by the lessor;

3. Reasonable amounts payable for storage, if these amounts are payable for space not designated and not under the control of the financial institution; and

4. That portion of any rental payment which is applicable to the space subleased from the financial institution and not used by it;

(12) "Internal Revenue Code" means the Internal Revenue Code, Title 26 U.S.C., in effect on December 31, 2001, exclusive of any amendments made subsequent to that date;

(13) "Loan" means any extension of credit resulting from direct negotiations between the financial institution and its customer, and the purchase, in whole or in part, of the extension of credit from another. Loans include participations, syndications, and leases treated as loans for federal income tax purposes. Loans shall not include properties treated as loans under Section 595 of the Internal Revenue Code, futures or forward contracts, options, notional principal contracts such as swaps, credit card receivables, including purchased credit card relationships, noninterest-bearing balances due from depository institutions, cash items in the process of collection, federal funds sold, securities purchased under agreements to resell, assets held in a trading account, securities, interests in a real estate mortgage investment company, or other mortgage-backed or asset-backed security, and other similar items;

(14) "Loan secured by real property" means a loan or other obligation for which fifty percent (50%) or more of the aggregate value of the collateral used to secure the loan or other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property;

(15) "Merchant discount" means the fee or negotiated discount charged to a merchant by the financial institution for the privilege of participating in a program where a credit card is accepted in payment for merchandise or services sold to the card holder;

(16) "Person" means an individual, estate, trust, partnership, corporation, limited liability company, or any other business entity;

(17) "Principal base of operations" means:

(a) With respect to transportation property, the place from which the property is regularly directed or controlled; and

(b) With respect to an employee:

1. The place the employee regularly starts work and to which the employee customarily returns in order to receive instructions from his or her employer; or

2. If the place referred to in subparagraph 1. of this paragraph does not exist, the place the employee regularly communicates with customers or other persons; or

3. If the place referred to in subparagraph 2. of this paragraph does not exist, the place the employee regularly performs any other functions necessary to the exercise of the employee's trade or profession at some other point or points;

(18) "Real property owned" and "tangible personal property owned" mean real and tangible personal property, respectively, on which the financial institution may claim depreciation for federal income tax purposes, or

property to which the financial institution holds legal title and on which no other person may claim depreciation for federal income tax purposes or could claim depreciation if subject to federal income tax. Real and tangible personal property do not include coin, currency, or property acquired in lieu of or pursuant to a foreclosure;

(19) "Regular place of business" means an office at which the financial institution carries on its business in a regular and systematic manner and which is continuously maintained, occupied, and used by employees of the financial institution;

(20) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country;

(21) "Syndication" means an extension of credit in which two (2) or more persons fund and each person is at risk only up to a specified percentage of the total extension of credit or up to a specified dollar amount;

(22) "Taxable year" means calendar year 1996 and every calendar year thereafter;

(23) "Transportation property" means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels, and motor vehicles, as well as any equipment or containers attached to the property, such as rolling stock, barges, or trailers;

(24) "United States obligations" means all obligations of the United States exempt from taxation under 31 U.S.C. sec. 3124(a) or exempt under the United States Constitution or any federal statute, including the obligations of any instrumentality or agency of the United States that are exempt from state or local taxation under the United States Constitution or any statute of the United States; and

(25) "Kentucky obligations" means all obligations of the Commonwealth of Kentucky, its counties, municipalities, taxing districts, and school districts, exempt from taxation under the Kentucky Revised Statutes and the Constitution of Kentucky.

Section 331. KRS 136.525 is amended to read as follows:

(1) A financial institution whose business activity is taxable both within and without this Commonwealth shall apportion its net capital pursuant to the provisions of this section.

(2) Net capital shall be apportioned to this Commonwealth by multiplying total net capital by the apportionment percentage. The apportionment percentage is determined by adding together the financial institution's receipts factor as determined under the provisions of KRS 136.530, property factor as determined under the provisions of KRS 136.535, and payroll factor as determined under the provisions of KRS 136.540 and dividing the sum by three (3). If one (1) of the factors is missing, the two (2) remaining factors are added and the sum is divided by two (2). If two (2) of the factors are missing, the remaining factor is the apportionment percentage. A factor is missing if both its numerator and denominator are zero (0), but it is not missing merely because the numerator is zero (0).

(3) Each factor shall be calculated by the method of accounting used by the financial institution for the taxable year.

(4) If the apportionment provisions of KRS 136.500 to 136.575 do not fairly represent the extent of the financial institution's business activity in this Commonwealth, the financial institution may petition for or the *department*~~[cabinet]~~ may require, in respect to all or any part of the financial institution'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 financial institution's business activity in this Commonwealth; or

(d) The employment of any other method to effectuate an equitable apportionment of the financial institution's net capital.

Section 332. KRS 136.530 is amended to read as follows:

(1) The receipts factor is a fraction, the numerator of which is the receipts of the financial institution in this Commonwealth during the taxable year as determined by subsection (2) of this section and the denominator of

which is the receipts of the financial institution within and without this Commonwealth during the taxable year. Receipts shall include the following:

(a) Receipts from the lease or rental of real property owned by the financial institution;

(b) Receipts from the lease or rental of tangible personal property owned by the financial institution;

(c) Interest and fees or penalties in the nature of interest from loans secured by real property;

(d) Interest and fees or penalties in the nature of interest from loans not secured by real property;

(e) Net gains from the sale of loans. Net gains from the sale of loans includes income recorded under the coupon stripping rules of Section 1286 of the Internal Revenue Code;

(f) Interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees;

(g) Net gains, but not less than zero (0), from the sale of credit card receivables;

(h) All credit card issuer's reimbursement fees;

(i) Receipts from merchant discount. Receipts from merchant discount shall be computed net of any cardholder charge backs, but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders;

(j) Loan servicing fees derived from loans secured by real property;

(k) Loan servicing fees derived from loans not secured by real property;

(l) Interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities and from trading assets and activities. Investment assets and activities and trading assets and activities include but are not limited to investment securities, trading account assets, federal funds, securities purchased and sold under agreements to resell or repurchase, options, futures contracts, forward contracts, notional principal contracts such as swaps, equities, and foreign currency transactions. The receipts factor shall include the following amounts:

1. The amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements; and

2. The amount by which interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from these assets and activities;

(m) All receipts derived from sales that would be included in the factor established by KRS 136.070(3)(d)1., 2., and 3.; and

(n) Receipts from services not otherwise specifically listed.

(2) A determination of whether receipts should be included in the numerator of the fraction shall be made as follows:

(a) Receipts from the lease or rental of real property owned by the financial institution shall be included in the numerator if the property is located within this Commonwealth or receipts from the sublease of real property if the property is located within this Commonwealth.

(b) 1. Except as described in subparagraph 2. of this paragraph, receipts from the lease or rental of tangible personal property owned by the financial institution shall be included in the numerator if the property is located within this Commonwealth when it is first placed in service by the lessee.

2. Receipts from the lease or rental of transportation property owned by the financial institution are included in the numerator of the receipts factor to the extent that the property is used in this Commonwealth. The extent an aircraft will be deemed to be used in this Commonwealth and the amount of receipts that is to be included in the numerator of this Commonwealth's receipts factor is determined by multiplying all the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this Commonwealth and the denominator of which is the total number of landings of the aircraft. If the extent of the use of any

transportation property within this Commonwealth cannot be determined, then the property shall be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle shall be deemed to be used wholly in the state in which it is registered.

(c) 1. Interest and fees or penalties in the nature of interest from loans secured by real property shall be included in the numerator if the property is located within this Commonwealth. If the property is located both within this Commonwealth and one (1) or more other states, receipts shall be included if more than fifty percent (50%) of the fair market value of the real property is located within this Commonwealth. If more than fifty percent (50%) of the fair market value of the real property is not located within any one (1) state, then the receipts described in this subparagraph shall be included in the numerator if the borrower is located in this Commonwealth.

2. The determination of whether the real property securing a loan is located within this Commonwealth shall be made as of the time the original agreement was made, and any subsequent substitutions of collateral shall be disregarded.

(d) Interest and fees or penalties in the nature of interest from loans not secured by real property shall be included in the numerator if the borrower is located in this Commonwealth.

(e) Net gains from the sale of loans shall be included in the numerator as provided in subparagraphs 1. and 2. of this paragraph. Net gains from the sale of loans includes income recorded under the coupon stripping rules of Section 1286 of the Internal Revenue Code.

1. The amount of net gains, but not less than zero (0), from the sale of loans secured by real property included in the numerator is determined by multiplying net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (c) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

2. The amount of net gains, but not less than zero (0), from the sale of loans not secured by real property included in the numerator is determined by multiplying net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (d) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(f) Interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees, shall be included in the numerator if the billing address of the card holder is in this Commonwealth.

(g) Net gains, but not less than zero (0), from the sale of credit card receivables to be included in the numerator shall be determined by multiplying the amount established in paragraph (g) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (f) of this subsection and the denominator of which is the financial institution's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(h) Credit card issuer's reimbursement fees to be included in the numerator shall be determined by multiplying the amount established in paragraph (h) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (f) of this subsection and the denominator of which is the financial institution's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(i) Receipts from merchant discount shall be included in the numerator if the commercial domicile of the merchant is in this Commonwealth. Receipts from merchant discount shall be computed net of any cardholder charge backs but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders.

(j) 1. a. Loan servicing fees derived from loans secured by real property to be included in the numerator shall be determined by multiplying the amount determined under paragraph (j) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (c) of this

subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

b. Loan servicing fees derived from loans not secured by real property to be included in the numerator shall be determined by multiplying the amount determined under paragraph (k) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (d) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

2. In circumstances in which the financial institution receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the receipts factor shall include the fees if the borrower is located in this Commonwealth.

(k) Receipts from services not otherwise apportioned under this section shall be included in the numerator if the service is performed in this Commonwealth. If the service is performed both within and without this Commonwealth, the numerator of the receipts factor includes receipts from services not otherwise apportioned under this section, if a greater proportion of the income-producing activity is performed in this Commonwealth based on cost of performance.

(l) 1. The numerator of the receipts factor includes interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities and from trading assets and activities described in paragraph (l) of subsection (1) of this section that are attributable to this Commonwealth.

a. The amount of interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities in the investment account to be attributed to this Commonwealth and included in the numerator is determined by multiplying all income from the assets and activities by a fraction the numerator of which is the average value of the assets that are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the average value of all the assets.

b. The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 1. of paragraph (l) of subsection (1) of this section from funds and securities by a fraction the numerator of which is the average value of federal funds sold and securities purchased under agreements to resell which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the average value of all funds and securities.

c. The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts described in subdivisions a. and b. of this subparagraph, attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 2. of paragraph (l) of subsection (1) of this section by a fraction the numerator of which is the average value of trading assets which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the average value of all assets.

d. For purposes of this subparagraph, average value shall be determined using the rules for determining the average value of tangible personal property set forth in KRS 136.535(3) and (4).

2. In lieu of using the method set forth in subparagraph 1. of this paragraph, the financial institution may elect, or the *department*~~[cabinet]~~ may require in order to fairly represent the business activity of the financial institution in this Commonwealth, the use of the method set forth in this subparagraph.

a. The amount of interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities in the investment account to be attributed to this Commonwealth and included in the numerator is determined by multiplying all income from assets and activities by a fraction the numerator of which is the gross income from assets and activities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all assets and activities.

b. The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 1. of paragraph (l) of subsection (1) of this section from funds and securities by a fraction the numerator of which is the gross income from funds and securities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all funds and securities.

c. The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book and foreign currency transactions, but excluding amounts described in subdivisions a. and b. of this subparagraph, attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 2. of paragraph (l) of subsection (1) of this section by a fraction the numerator of which is the gross income from trading assets and activities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all assets and activities.

3. If the financial institution elects or is required by the *department*~~[cabinet]~~ to use the method set forth in subparagraph 2. of this paragraph, it shall use this method on all subsequent returns unless the financial institution receives prior permission from the *department*~~[cabinet]~~ to use, or the *department*~~[cabinet]~~ requires, a different method.

4. The financial institution shall have the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside this Commonwealth by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this Commonwealth. Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than one (1) regular place of business and one (1) regular place of business is in this Commonwealth and one (1) regular place of business is outside this Commonwealth, the asset or activity shall be considered to be located at the regular place of business of the financial institution where the investment or trading policies or guidelines with respect to the asset or activity are established. Unless the financial institution demonstrates to the contrary, the policies and guidelines shall be presumed to be established at the commercial domicile of the financial institution.

(m) The numerator of the receipts factor includes all other receipts derived from sales as determined pursuant to the provisions set forth in KRS 136.070(3)(d)1., 2., and 3.

(n) 1. All receipts that would be assigned under this section to a state in which the financial institution is not taxable shall be included in the numerator of the receipts factor, if the financial institution's commercial domicile is in this Commonwealth.

2. For purposes of subparagraph 1. of this paragraph, "taxable" means either:

a. That a financial institution is subject in another state to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, a corporate stock tax including a bank shares tax, a single business tax, an earned surplus tax, or any tax which is imposed upon or measured by net income; or

b. That another state has statutory authority to subject the financial institution to any of the taxes in subdivision a. of this subparagraph, whether in fact the state does or does not impose the tax.

Section 333. KRS 136.535 is amended to read as follows:

(1) As used in this section:

(a) "Administration" means the process of managing an account. The process includes bookkeeping, collecting the payments, corresponding with the customer, reporting to management regarding the status of the agreement and proceeding against the borrower or the security interest if the borrower is in default. The activity is located at the regular place of business that oversees this activity;

(b) "Approval" means the procedure whereby employees or the board of directors of the financial institution make the final determination whether to enter into the agreement. The activity is located at the regular place of business which the financial institution's employees making the final determination are regularly connected with or working out of, regardless of where the services of the employees were actually performed. If the board of directors makes the final determination, the activity is located at the commercial domicile of the financial institution;

(c) "Investigation" means the procedure whereby employees of the financial institution determine the credit worthiness of the customer as well as the degree of risk involved in making a particular agreement. The activity is located at the regular place of business which the financial institution's employees making the investigation are regularly connected with or working out of, regardless of where the services of the employees were actually performed;

(d) "Negotiation" means the procedure whereby employees of the financial institution and its customer determine the terms of the agreement, including the amount, duration, interest rate, frequency of repayment, currency denomination, and security required. The activity is located at the regular place of business which the financial institution's employees are regularly connected with or out of, regardless of where the services of the employees were actually performed;

(e) "Participation" means an extension of credit in which an undivided ownership interest is held on a pro rata basis in a single loan or pool of loans and related collateral. In a loan participation, the credit originator initially makes the loan and then subsequently resells all or a portion of it to other lenders. The participation may or may not be known to the borrower; and

(f) "Solicitation" occurs when:

1. An employee of the financial institution initiates contact with the customer. The activity is located at the regular place of business which the financial institution's employee making the contact is regularly connected with or working out of, regardless of where the services of the employee were actually performed; or

2. The customer initiates the contact with the financial institution. If the customer's initial contact was not at a regular place of business of the financial institution, the regular place of business, if any, where the solicitation occurred is determined by the facts in each case.

(2) The property factor is a fraction, the numerator of which is the average value of real property and tangible personal property rented to the financial institution that is located or used within this Commonwealth during the taxable year, the average value of the financial institution's real and tangible personal property owned that is located or used within this Commonwealth during the taxable year, and the average value of the financial institution's loans and credit card receivables that are located within this Commonwealth during the taxable year, and the denominator of which is the average value of all such property located or used within and without this Commonwealth during the taxable year. Average value of property is determined under subsection (4) of this section.

(3) (a) The value of real property and tangible personal property owned by the financial institution is the original cost or other basis of property for federal income tax purposes without regard to depletion, depreciation, or amortization.

(b) Loans are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a loan is charged off in whole or in part for federal income tax purposes, the portion of the loan charged off is not outstanding. A specifically-allocated reserve established pursuant to regulatory or financial accounting guidelines which is treated as charged off for federal income tax purposes shall be treated as charged off for purposes of this section.

(c) Credit card receivables are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a credit card receivable is charged off in whole or in part for federal income tax purposes, the portion of the receivable charged off is not outstanding.

(4) The average value of property owned by the financial institution is computed on an annual basis by adding the value of the property on the first day of the taxable year and the value on the last day of the taxable year and dividing the sum by two (2). If averaging on this basis does not properly reflect average value, the *department*~~[cabinet]~~ may require averaging on a more frequent basis. The financial institution may request permission from the *department*~~[cabinet]~~ to average on a more frequent basis. When averaging on a more frequent basis is authorized by the *department*~~[cabinet]~~, the same method of valuation shall be used consistently by the financial institution with respect to property within and without this Commonwealth and on all subsequent returns unless the financial institution receives prior permission from the *department*~~[cabinet]~~ or the *department*~~[cabinet]~~ requires a different method of determining average value.

(5) (a) The average value of real property and tangible personal property that the financial institution has rented from another and which is not treated as property owned by the financial institution for federal income tax purposes shall be determined annually by multiplying the gross rents payable during the taxable year by eight (8).

(b) Where the use of the general method described in this subsection results in inaccurate valuations of rented property, any other method which properly reflects the value may be adopted by the *department*~~[cabinet]~~ or by the financial institution when approved in writing by the *department*~~[cabinet]~~. Once approved, the alternative method of valuation shall be used on all subsequent returns unless the financial institution receives prior approval from the *department*~~[cabinet]~~ or the *department*~~[cabinet]~~ requires a different method of valuation.

(6) (a) Except as described in paragraph (b) of this subsection, real property and tangible personal property owned by or rented to the financial institution is considered to be located within this Commonwealth if it is physically located, situated, or used within this Commonwealth.

(b) Transportation property is included in the numerator of the property factor to the extent that the property is used in this Commonwealth. The extent to which an aircraft shall be deemed to be used in this Commonwealth and the amount of value that is to be included in the numerator of this Commonwealth's property factor is determined by multiplying the average value of the aircraft by a fraction the numerator of which is the number of landings of the aircraft in this Commonwealth and the denominator of which is the total number of landings of the aircraft everywhere. If the extent of the use of any transportation property within this Commonwealth cannot be determined, then the property shall be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle shall be deemed to be used wholly in the state in which it is registered.

(7) (a) 1. A loan is considered to be located within this Commonwealth if it is properly assigned to a regular place of business of the financial institution within this Commonwealth.

2. A loan is properly assigned to the regular place of business with which it has a preponderance of substantive contacts. A loan assigned by the financial institution to a regular place of business without the Commonwealth shall be presumed to have been properly assigned if:

a. The financial institution has assigned, in the regular course of its business, the loan on its records to a regular place of business consistent with federal or state regulatory requirements;

b. The assignment on its records is based upon substantive contacts of the loan to the regular place of business; and

c. The financial institution uses the records reflecting assignment of loans for the filing of all state and local tax returns for which an assignment of loans to a regular place of business is required.

3. The presumption of proper assignment of a loan provided in subparagraph 2. of this paragraph may be rebutted upon a showing by the *department*~~[cabinet]~~, supported by a preponderance of the evidence, that the preponderance of substantive contacts regarding the loan did not occur at the regular place of business to which it was assigned on the financial institution's records. When the presumption has been rebutted, the loan shall then be located within this Commonwealth if

the financial institution had a regular place of business within this Commonwealth at the time the loan was made and the financial institution fails to show, by a preponderance of the evidence, that the preponderance of substantive contacts regarding the loan occurred outside this Commonwealth.

(b) For financial institutions with commercial domicile in this Commonwealth as defined in KRS 136.500, it shall be presumed, subject to rebuttal by the financial institution on a showing supported by the preponderance of evidence, that the preponderance of substantive contacts regarding the loan occurred within this Commonwealth.

(c) To determine the state in which the preponderance of substantive contacts relating to a loan have occurred, the facts and circumstances regarding the loan at issue shall be reviewed on a case-by-case basis, and consideration shall be given to activities such as the solicitation, investigation, negotiation, approval, and administration of the loan as defined in subsection (1) of this section.

(8) Credit card receivables shall be treated as loans and shall be subject to the provisions of subsection (7) of this section.

(9) A loan that has been properly assigned to a state shall, absent any change of material fact, remain assigned to that state for the length of the original term of the loan. Thereafter, the loan may be properly assigned to another state if that loan has a preponderance of substantive contacts to a regular place of business there.

Section 334. KRS 136.545 is amended to read as follows:

(1) On or before the March 15 following each taxable year, a return for the preceding taxable year shall be filed with the *department*~~[cabinet]~~ in the form and manner prescribed by the *department*~~[cabinet]~~, together with payment of any tax due.

(2) A return shall be filed by each financial institution.

(3) The return shall show the amount of taxes for the period covered by the return and other information necessary for the proper administration of KRS 136.500 to 136.575.

(4) The *department*~~[cabinet]~~ shall, upon written request received on or prior to the due date of the return and tax, grant an automatic extension of up to ninety (90) days for the filing of returns. An extension of time to file a return does not extend the payment of tax due, which shall be estimated by the financial institution and paid on or before the date specified in subsection (1) of this section.

(5) If the time for filing a return is extended, the financial institution shall pay, as part of the tax, an amount equal to the tax interest rate as defined in KRS 131.010(6) 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 with the *department*~~[cabinet]~~.

Section 335. KRS 136.550 is amended to read as follows:

(1) As soon as practicable after each return is received, the *department*~~[cabinet]~~ shall examine and audit it. If the amount of tax computed by the *department*~~[cabinet]~~ is greater than the amount returned by the financial institution, the excess shall be assessed by the *department*~~[cabinet]~~ within four (4) years from the date prescribed by law for the filing of a return including an extension of time for filing, except as provided in this subsection. A notice of the assessment shall be mailed to the financial institution.

(a) In the case of a failure to file a return or of a fraudulent return, the excess may be assessed at any time.

(b) In the case of a return wherein a financial institution understates its net capital or omits from net capital an amount properly includible therein or both, which understatement or omission or both is in excess of twenty-five percent (25%) of the amount of net capital stated in the return, the excess may be assessed at any time within six (6) years after the return was filed.

(2) For the purpose of subsection (1) of this section, a return filed before the last day prescribed by law for the filing shall be considered as filed on the last day. The times provided for in subsection (1) of this section may be extended by agreement between the financial institution and the *department*~~[cabinet]~~.

Section 336. KRS 136.560 is amended to read as follows:

(1) Every financial institution shall keep records, receipts, invoices, and other pertinent papers in the form as the *department*~~[cabinet]~~ may require.

(2) Every financial institution that files the returns required under KRS 136.545 shall keep records for not less than six (6) years from the making of records unless the *department*~~[cabinet]~~ in writing authorizes their destruction at an earlier date.

Section 337. KRS 136.575 is amended to read as follows:

(1) As used in this section, "deposits" means all demand and time deposits, excluding deposits of the United States government, state and political subdivisions, other financial institutions, public libraries, educational institutions, religious institutions, charitable institutions, and certified and officers' checks.

(2) Counties, cities, and urban-county governments may impose a franchise tax on financial institutions measured by the deposits in the institutions located within the jurisdiction of the county, city, or urban-county government at a rate not to exceed twenty-five thousandths of one percent (0.025%) of the deposits if imposed by counties and cities and at a rate not to exceed fifty thousandths of one percent (0.050%) of the deposits if imposed by urban-county governments. The amount and location of deposits in the financial institutions shall be determined by the method used for filing the summary of deposits report with the Federal Deposit Insurance Corporation. The accounting method used to allocate deposits for completion of the summary of deposits shall be the same as has been utilized in prior periods. Any deviation from prior accounting methods may only be adopted with the permission of the *department*~~[cabinet]~~.

(3) By August 15, 1997, and annually thereafter, each financial institution shall file with the *department*~~[cabinet]~~, on a form prescribed by the *department*~~[cabinet]~~, a report of all deposits located within this Commonwealth as of the preceding June 30, along with a copy of the most recent summary of deposits filed with the Federal Deposit Insurance Corporation. The *department*~~[cabinet]~~ shall review the report and certify to the local jurisdictions that have enacted the franchise tax by October 1 of each year the amount of deposits within the jurisdiction and amount of the tax due. The local taxing authority shall issue bills to the financial institution by December 1 and require payment, with a two percent (2%) discount by December 31, or without discount by January 31 of the next year.

(4) For calendar year 1996 only, each financial institution shall file with the *department*~~[cabinet]~~ on or before September 15, 1996, a report of all deposits located within this Commonwealth as of June 30, 1996, along with a copy of the most recent summary of deposits filed with the Federal Deposit Insurance Corporation. The *department*~~[cabinet]~~ shall review the report after being given notice by the local jurisdiction that the tax under this section was enacted during 1996, and shall certify to the local jurisdiction the amount of deposits within the jurisdiction and the amount of tax due by March 1, 1997. The local taxing authority shall issue bills to the financial institution by May 1, 1997, and require payment with a two percent (2%) discount by May 31, 1997, or without discount by June 30, 1997.

(5) The local jurisdiction shall notify the *department*~~[cabinet]~~ of the tax rate imposed upon the enactment of the tax. The local jurisdiction shall also notify the *department*~~[cabinet]~~ of any subsequent rate changes.

Section 338. KRS 136.980 is amended to read as follows:

If any tax imposed by KRS 136.330 to 136.395, 299.530 and 304.4-030, whether assessed by the *department*~~[cabinet]~~, or the taxpayer, or any installment or portion of any tax is not paid on or before the date prescribed for its payment, there shall be collected interest upon the unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made to the *department*~~[cabinet]~~.

Section 339. KRS 136.990 is amended to read as follows:

(1) Any corporation that fails to pay its taxes, penalty, and interest as provided in subsection (2) of KRS 136.050, after becoming delinquent, shall be fined fifty dollars ($50) for each day the same remains unpaid, to be recovered by indictment or civil action, of which the Franklin Circuit Court shall have jurisdiction.

(2) Any public service corporation, or officer thereof, that willfully fails or refuses to make reports as required by KRS 136.130 and 136.140 shall be fined one thousand dollars ($1,000), and fifty dollars ($50) for each day the reports are not made after April 30 of each year.

(3) Any superintendent of schools or county clerk who fails to report as required by KRS 136.190, or who makes a false report, shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each offense.

(4) Any company or association that fails or refuses to return the statement or pay the taxes required by KRS 136.330 or 136.340 shall be fined one thousand dollars ($1,000) for each offense.

(5) Any insurance company that fails or refuses for thirty (30) days to return the statement required by KRS 136.330 or 136.340 and to pay the tax required by KRS 136.330 or 136.340, shall forfeit one hundred dollars ($100) for each offense. The commissioner of insurance shall revoke the authority of the company or its agents to do business in this state, and shall publish the revocation pursuant to KRS Chapter 424.

(6) Any person who violates subsection (3) of KRS 136.390 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(7) Where no other penalty is mentioned for failing to do an act required, or for doing an act forbidden by this chapter, the penalty shall be not less than ten dollars ($10) nor more than five hundred dollars ($500).

(8) The Franklin Circuit Court shall have jurisdiction of all prosecutions under subsections (4) to (6) of this section.

(9) Any person who violates any of the provisions of KRS 136.073 or KRS 136.090 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.

(10) If the tax imposed by KRS 136.070 or KRS 136.073, whether assessed by the *department*~~[cabinet]~~ or the taxpayer, or any installment or portion of the tax, is not paid on or before the date prescribed for its payment, interest shall be collected upon the nonpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made to the *department*~~[cabinet]~~.

Section 340. KRS 137.130 is amended to read as follows:

(1) Every person engaged in the transportation of crude petroleum in this state from receptacles located at the place of production in this state shall be considered a transporter of crude petroleum. Every transporter of crude petroleum shall make a verified report to the *Department of* Revenue~~[Cabinet]~~ by the twentieth day of the month succeeding each month in which crude petroleum is so received for transportation, showing the quantity of each kind or quality of crude petroleum so received from each county in this state and the market value of the crude petroleum on the first business day after the tenth day of the month in which the report is made. The report shall show any sales of crude petroleum so received, the quantity of crude petroleum in each sale, the date of each sale, and the market price of the crude petroleum on each date of sale for the preceding month. This report shall be made upon blanks furnished and prescribed by the *department*~~[cabinet]~~. The *department*~~[cabinet]~~ may require additional reports from time to time, on blanks prepared by it, from all producers and transporters of crude petroleum.

(2) Every person required to report under subsection (1) of this section shall register as a transporter of crude petroleum in the office of the county clerk in each county in which such business is carried on by him, in a book which the *department*~~[cabinet]~~ shall provide, showing the name, residence and place of business of the transporter. The county clerk shall immediately certify to the *department*~~[cabinet]~~ a copy of each registration as made.

Section 341. KRS 137.140 is amended to read as follows:

Every transporter of crude petroleum shall be liable for the taxes imposed under KRS 137.120 on all crude petroleum received by him. He shall collect from the producer, in money or crude petroleum, the taxes imposed. If collection is in crude petroleum, the transporter may sell the same and pay the taxes by check or cash to the *Department of* Revenue~~[Cabinet]~~ or sheriff, as provided in KRS 137.150 and 137.160.

Section 342. KRS 137.150 is amended to read as follows:

Any county imposing a tax under KRS 137.120 shall immediately after the levy of the tax give notice thereof to each transporter of crude petroleum registered in the county. The transporter shall, after the first day of the month immediately following such notice, proceed as provided in KRS 137.140 to collect the county tax and pay it to the sheriff of the county in the manner and at the time payment of such taxes is required to be made to the *Department of* Revenue~~[Cabinet]~~. Each county imposing the tax shall, upon the fixing of the levy, certify the same to the *department*~~[cabinet]~~, which shall make the assessment for the county tax in the same manner and at the same value as provided for the state tax, which shall be certified to the county for collection.

Section 343. KRS 137.160 is amended to read as follows:

(1) When the *Department of* Revenue~~[Cabinet]~~ has received the reports provided for in KRS 137.130, it shall, upon such reports and such other reports and information as it may secure, assess the value of all grades or kinds of crude petroleum reported for each month.

(2) Where the report shows no sale of crude petroleum during the month covered by the report, the market value of crude petroleum on the first business day after the tenth day of the month in which the report is made shall be fixed by the *department*~~[cabinet]~~ as the assessed value of all crude petroleum covered by the report. Where the report shows that all crude petroleum reported has been sold during the month covered by the report, the market price of such crude petroleum on each day of sale shall be the assessed value of all crude petroleum sold on that date of sale, and the total amount of the tax to be reported as the assessment on the report shall be the total of the assessments made on such sales. If the report shows that part of the crude petroleum reported has been sold and part remains unsold, the market price of the crude petroleum on the first business day after the tenth day of the month following the month covered by the report shall be fixed as the assessed value of the portion of the crude petroleum unsold, the market price of the crude petroleum on each day of sale shall be the assessed value of the portion sold, and the total amount of the tax to be reported as the assessment on the report shall be the total of the assessments made on the sold and unsold crude petroleum. The *department*~~[cabinet]~~, in making its assessments, shall take into consideration transportation charges.

(3) The *department*~~[cabinet]~~ shall, by the last day of the month in which the reports are required to be made, notify each transporter of his assessment, and certify the assessment to the county clerk of each county that has reported the levy of a county tax under KRS 137.150. The county clerk shall immediately deliver a copy thereof to the sheriff for collection of the county tax. The transporter so notified of the assessment shall have the right to an appeal to the Kentucky board of tax appeals.

Section 344. KRS 137.180 is amended to read as follows:

(1) Each person engaged in the business of conducting a race track shall, on or before thirty (30) days following the close of each duly licensed race meeting, furnish the *Department of* Revenue~~[Cabinet]~~ a verified report of the number of days on which races were conducted on that race track during the race meeting, together with a statement of its daily mutuel handle for each day during the meeting, and at the same time pay to the state the tentatively correct amount of the license tax apparently due it pursuant to KRS 137.170.

(2) On or before December 31 in each year, each person engaged in the business of conducting a race track shall file a final report with the *Department of* Revenue~~[Cabinet]~~ giving in summary form a recapitulation of the information furnished by the previous tentative reports filed during the year, computing the final license tax due the state for the year ending November 30 and showing the amount of tentative license tax actually paid during the year. Any balance of license tax due the state as shown on the final report shall be paid at the same time as the filing. Any overpayment in license tax disclosed by the final report shall, at the option of the taxpayer, be promptly refunded by the state or credited against the license tax to be due from the taxpayer in the following year.

(3) Any person who violates any provision of this section or KRS 137.170 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax interest rate as defined in KRS 131.010(6) upon the unpaid amount from the date prescribed for its payment until payment is actually made to the *department*~~[cabinet]~~.

Section 345. KRS 137.990 is amended to read as follows:

(1) (a) Any person who engages in any business or sells or offers to sell or has on hand for the purpose of sale any article or exercises any privilege for which a license is required or imposed by KRS 137.115 before procuring the license and paying the tax shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) for each offense, unless otherwise specifically provided;

(b) Any county clerk who violates any of the provisions of KRS 137.115, or any administrative regulation promulgated by the *Department of* Revenue~~[Cabinet]~~ thereunder, shall be fined not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) for each offense; and

(c) Any person who makes a false statement in securing a license under KRS 137.115 shall be deemed guilty of a misdemeanor.

(2) (a) Any person who violates any provision of KRS 137.120 to 137.160 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180; and

(b) Any person who violates any of the provisions of KRS 137.120 to 137.160 may be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for not less than thirty (30) days nor more than six (6) months, or both.

(3) Any person who violates any of the provisions of KRS 137.170 or 137.180 shall be fined not more than one thousand dollars ($1,000) or imprisoned in the county jail not more than thirty (30) days, or both so fined and imprisoned. If the offender is a corporation, the principal officer or the officer or employee directly responsible for the violation, or both, shall be punished as provided in this subsection.

Section 346. KRS 138.130 is amended to read as follows:

As used in KRS 138.130 to 138.205, unless the context requires otherwise:

(1) *"Department"*~~["Cabinet"]~~ means the *Department of* Revenue~~[Cabinet]~~.

(2) "Manufacturer" means any person who manufactures or produces cigarettes within or without this state.

(3) "Retailer" means any person who sells to a consumer or to any person for any purpose other than resale.

(4) "Sale at retail" shall mean a sale to any person for any other purpose other than resale.

(5) "Cigarettes" shall mean and include any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

(6) "Sale" or "sell" shall mean any transfer for a consideration, exchange, barter, gift, offer for sale, advertising for sale, soliciting an order for cigarettes, and distribution in any manner or by any means whatsoever.

(7) "Tax evidence" shall mean and include any stamps, metered impressions or other indicia prescribed by the *department*~~[cabinet]~~ by regulation as a means of denoting the payment of tax.

(8) "Person" shall mean and include any individual, firm, copartnership, joint venture, association, municipal or private corporation whether organized for profit or not, Commonwealth of Kentucky or any of its political subdivisions, estate, trust or any other group or combination acting as a unit, and the plural as well as the singular.

(9) "Resident wholesaler" shall mean any person who purchases at least seventy-five percent (75%) of all cigarettes purchased by him directly from the cigarette manufacturer on which the cigarette tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state where he attaches cigarette tax evidence, or receives untaxed cigarettes.

(10) "Nonresident wholesaler" shall mean any person who purchases cigarettes directly from the manufacturer and maintains a permanent location or locations outside this state where Kentucky cigarette tax evidence is attached or from where Kentucky cigarette tax is reported and paid.

(11) "Sub-jobber" shall mean any person who purchases cigarettes from a wholesaler licensed under KRS 138.195 on which the Kentucky cigarette tax has been paid and makes them available to retailers for resale. No person shall be deemed to make cigarettes available to retailers for resale unless such person certifies and establishes to the satisfaction of the *department*~~[cabinet]~~ that firm arrangements have been made to regularly supply at least five (5) retail locations with Kentucky tax-paid cigarettes for resale in the regular course of business.

(12) "Vending machine operator" shall mean any person who operates one (1) or more cigarette vending machines.

(13) "Transporter" shall mean any person transporting untax-paid cigarettes obtained from any source to any destination within this state, other than cigarettes transported by the manufacturer thereof.

(14) "Unclassified acquirer" shall mean any person in this state who acquires cigarettes from any source on which the Kentucky cigarette tax has not been paid, and who is not a person otherwise required to be licensed under the provisions of KRS 138.195.

Section 347. KRS 138.146 is amended to read as follows:

(1) The cigarette tax imposed by KRS 138.130 to 138.205 shall be due when any licensed wholesaler or unclassified acquirer takes possession within this state of untax-paid cigarettes.

(2) The tax shall be paid by the purchase of stamps by a resident wholesaler within forty-eight (48) hours after the cigarettes are received by him. A stamp shall be affixed to each package of an aggregate denomination not less

than the amount of the tax upon the contents thereof. The stamp, so affixed, shall be prima facie evidence of payment of tax. Unless such stamps have been previously affixed, they shall be so affixed by each resident wholesaler prior to the delivery of any cigarettes to a retail location or any person in this state. The evidence of tax payment shall be affixed to each individual package of cigarettes by a nonresident wholesaler prior to the introduction or importation of the cigarettes into the territorial limits of this state. The evidence of tax payment shall be affixed by an unclassified acquirer within twenty-four (24) hours after the cigarettes are received by him.

(3) The *department*~~[cabinet]~~ shall by regulation prescribe the form of cigarette tax evidence, the method and manner of the sale and distribution of such cigarette tax evidence, and the method and manner that such evidence shall be affixed to the cigarettes. All cigarette tax evidence prescribed by the *department*~~[cabinet]~~ shall be designed and furnished in a fashion to permit identification of the person that affixed the cigarette tax evidence to the particular package of cigarettes, by means of numerical rolls or other mark on the cigarette tax evidence. The *department*~~[cabinet]~~ shall maintain for at least three (3) years information identifying the person that affixed the cigarette tax evidence to each package of cigarettes. This information shall not be kept confidential or exempt from disclosure to the public through open records.

(4) Units of cigarette tax evidence shall be sold at their face value, but the *department*~~[cabinet]~~ shall allow as compensation to any licensed wholesaler an amount of tax evidence equal to thirty cents ($0.30) face value for each three dollars ($3) of tax evidence purchased at face value. The *department*~~[cabinet]~~ shall have the power to withhold compensation from any licensed wholesaler for failure to abide by any provisions of KRS 138.130 to 138.205 or any regulations promulgated thereunder. Any refund or credit for unused cigarette tax evidence shall be reduced by the amount allowed as compensation at the time of purchase.

(5) No tax evidence may be affixed, or used in any way, by any person other than the person purchasing such evidence from the *department*~~[cabinet]~~. Such tax evidence may not be transferred or negotiated, and may not, by any scheme or device, be given, bartered, sold, traded, or loaned to any other person. Unaffixed tax evidence may be returned to the *department*~~[cabinet]~~ for credit or refund for any reason satisfactory to the *department*~~[cabinet]~~.

(6) In the event any retailer shall receive into his possession cigarettes to which evidence of Kentucky tax payment is not properly affixed, he shall within twenty-four (24) hours notify the *department*~~[cabinet]~~ of such fact. Such notice shall be in writing, and shall give the name of the person from whom such cigarettes were received, and the quantity of such cigarettes, and such written notice may be given to any field agent of the *department*~~[cabinet]~~. The written notice may also be directed to the *commissioner of the Department of Revenue*~~[secretary of revenue]~~, Frankfort, Kentucky. If such notice is given by means of the United States mail, it shall be sent by certified mail. Any such cigarettes shall be retained by such retailer, and not sold, for a period of fifteen (15) days after giving the notice provided in this subsection. The retailer may, at his option, pay the tax due on any such cigarettes according to rules and regulations to be prescribed by the *department*~~[cabinet]~~, and proceed to sell the same after such payment.

(7) Cigarettes stamped with the cigarette tax evidence of another state shall at no time be commingled with cigarettes on which the Kentucky cigarette tax evidence has been affixed, but any licensed wholesaler, licensed sub-jobber, or licensed vending machine operator may hold cigarettes stamped with the tax evidence of another state for any period of time, subsection (2) of this section notwithstanding.

Section 348. KRS 138.155 is amended to read as follows:

In lieu of the affixing of cigarette tax evidence to individual packages of cigarettes as the means of denoting payment of the cigarette tax imposed by KRS 138.130 to 138.205, the *department*~~[cabinet]~~ may prescribe, by rules and regulations sufficient to protect the revenue of this state, a method of reporting, payment and collection of such tax, without the affixing of tax evidence to individual packages of cigarettes. In the event such a system is adopted no compensation for reporting for the purpose of such tax in excess of two percent (2%) of the tax due shall be allowed to any person.

Section 349. KRS 138.165 is amended to read as follows:

(1) It is declared to be the legislative intent of KRS 138.130 to 138.205 that any untax-paid cigarettes held, owned, possessed, or in control of any person other than as provided in KRS 138.130 to 138.205 are contraband and subject to seizure and forfeiture as set out in this section.

(2) Whenever any peace officer of this state, or any representative of the *department*~~[cabinet]~~, finds any untax-paid cigarettes within the borders of this state in the possession of any person other than a licensee authorized to

possess untax-paid cigarettes by the provisions of KRS 138.130 to 138.205, such cigarettes shall be immediately seized and stored in a depository to be selected by the officer or agent. At the time of seizure, the officer or agent shall deliver to the person in whose custody the cigarettes are found a receipt for the cigarettes. The receipt shall state on its face that any inquiry concerning any goods seized shall be directed to the *commissioner of the Department of Revenue*~~[secretary of revenue]~~, Frankfort, Kentucky. Immediately upon seizure, the officer or agent shall notify the *commissioner of the Department of Revenue*~~[secretary of revenue]~~ of the nature and quantity of the goods seized. Any seized goods shall be held for a period of twenty (20) days and if after such period no person has claimed the cigarettes as his property, the *commissioner*~~[secretary]~~ shall cause the same to be exposed to public sale to any person authorized to purchase untax-paid cigarettes. The sale shall be on notice published pursuant to KRS Chapter 424. All proceeds, less the cost of sale, from the sale shall be paid into the Kentucky State Treasury for general fund purposes.

(3) It is declared to be the legislative intent that any vending machine used for dispensing cigarettes on which Kentucky cigarette tax has not been paid is contraband and subject to seizure and forfeiture. In the event any peace officer or agent of the *department*~~[cabinet]~~ finds any vending machine within the borders of this state dispensing untax-paid cigarettes, he shall immediately seize the vending machine and store the same in a safe place selected by him. He shall thereafter proceed as provided in subsection (2) of this section and the *commissioner of the Department of Revenue*~~[secretary of revenue]~~ shall cause the vending machine to be sold, and the proceeds applied, as set out in subsection (2) of this section.

(4) No cigarettes, on which the tax imposed by KRS 138.130 to 138.205 has not been paid, shall be transported within this state by any person other than a manufacturer or a person licensed under the provisions of KRS 138.195. It is declared to be the legislative intent that any motor vehicle used to transport any such cigarettes by other persons is contraband and subject to seizure and forfeiture. In the event any peace officer or agent of the *department*~~[cabinet]~~ finds any such motor vehicle, he shall immediately seize the motor vehicle and store it in a safe place specified by him. He shall thereafter proceed as provided in subsection (2) of this section and the *commissioner of the Department of Revenue*~~[secretary of revenue]~~ shall cause the motor vehicle to be sold, and the proceeds applied, as set out in subsection (2) of this section.

(5) The owner or any person having an interest in any goods, machines or vehicles seized as provided under subsections (1) to (4) of this section may apply to the *commissioner of the Department of Revenue*~~[secretary of revenue]~~ for remission of the forfeiture for good cause shown. If it is shown to the satisfaction of the *Department of* Revenue~~[Cabinet]~~ that the owner was without fault in the possession, dispensing or transportation of the untax-paid cigarettes, he shall remit the forfeiture. In the event he determines that the possession, dispensing or transportation of untax-paid cigarettes was willful or intentional he may nevertheless remit the forfeiture on condition that the owner pay a penalty to be prescribed by him of not more than fifty percent (50%) of the value of the thing forfeited. All taxes due on untax-paid cigarettes shall be paid in addition to the penalty, if any.

(6) Any party aggrieved by an order entered hereunder may appeal to the Kentucky Board of Tax Appeals in the manner provided by law.

Section 350. KRS 138.195 is amended to read as follows:

(1) No person other than a manufacturer shall acquire cigarettes in this state on which the Kentucky cigarette tax has not been paid, nor act as a resident wholesaler, nonresident wholesaler, vending machine operator, sub-jobber, transporter or unclassified acquirer of such cigarettes without first obtaining a license from the *department*~~[cabinet]~~ as set out in this section.

(2) Each resident wholesaler shall secure a separate license for each place of business at which cigarette tax evidence is affixed or at which cigarettes on which the Kentucky cigarette tax has not been paid are received. Each nonresident wholesaler shall secure a separate license for each place of business at which evidence of Kentucky cigarette tax is affixed or from where Kentucky cigarette tax is reported and paid. Such a license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars ($500) for each such year or portion thereof for which such license is secured.

(3) Each sub-jobber shall secure a separate license for each place of business from which Kentucky tax-paid cigarettes are made available to retailers, whether such place of business is located within or without this state. Such license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars ($500) for each such year or portion thereof for which such license is secured.

(4) Each vending machine operator shall secure a license for the privilege of dispensing Kentucky tax-paid cigarettes by vending machines. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of twenty-five dollars ($25) for each year or portion thereof for which such license is secured. No vending machine shall be operated within this Commonwealth without having prominently affixed thereto the name of its operator, together with the license number assigned to such operator by the *department*~~[cabinet]~~. The *department*~~[cabinet]~~ shall prescribe by regulation the manner in which the information shall be affixed to the vending machine.

(5) Each transporter shall secure a license for the privilege of transporting cigarettes within this state. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars ($50) for each such year or portion thereof for which such license is secured. No transporter shall transport any cigarettes without having in actual possession an invoice or bill of lading therefor, showing the name and address of the consignor and consignee, the date acquired by the transporter, the name and address of the transporter, the quantity of cigarettes being transported, together with the license number assigned to such transporter by the *department*~~[cabinet]~~.

(6) Each unclassified acquirer shall secure a license for the privilege of acquiring cigarettes on which the Kentucky cigarette tax has not been paid. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars ($50) for each such year or portion thereof for which such license is secured.

(7) Nothing in KRS 138.130 to 138.205 shall be construed to prevent the *department*~~[cabinet]~~ from requiring a person to purchase more than one (1) license if the nature of such person's business is so diversified as to justify such requirement.

(8) The *department*~~[cabinet]~~ may by regulation require any person licensed under the provisions of this section to supply such information concerning his business, sales or any privilege exercised, as is deemed reasonably necessary for the regulation of such licensees, and to protect the revenues of the state. Failure on the part of such licensee to comply with the provisions of KRS 138.130 to 138.205 or any regulations promulgated thereunder, or to permit an inspection of premises, machines or vehicles by an authorized agent of the *department*~~[cabinet]~~ at any reasonable time shall be grounds for the revocation of any license issued by the *department*~~[cabinet]~~, after due notice and a hearing by the *department*~~[cabinet]~~. The *commissioner of the Department of Revenue*~~[secretary of revenue]~~ may assign a time and place for such hearing and may appoint a conferee who shall conduct a hearing, receive evidence and hear arguments. Such conferee shall thereupon file a report with the *commissioner*~~[secretary]~~ together with a recommendation as to the revocation of such license. From any revocation made by the *commissioner of the Department of Revenue*~~[secretary of revenue]~~ on such report, the licensee may prosecute an appeal to the Kentucky Board of Tax Appeals as provided by law. Any person whose license has been revoked for the willful violation of any provision of KRS 138.130 to 138.205 shall not be entitled to any license provided for in this section, or have any interest in any such license, either disclosed or undisclosed, either as an individual, partnership, corporation or otherwise, for a period of one (1) year after such revocation.

(9) No license issued pursuant to the provisions of this section shall be transferable or negotiable except that a license may be transferred between an individual and a corporation, if that individual is the exclusive owner of that corporation, or between a subsidiary corporation and its parent corporation.

(10) Every manufacturer located or doing business in this state shall keep written records of all shipments of cigarettes to persons within this state, and shall submit reports of such shipments as the *department*~~[cabinet]~~ may require by regulation.

(11) No person licensed under this section except nonresident wholesalers shall either sell to or purchase from any other such licensee untax-paid cigarettes.

Section 351. KRS 138.205 is amended to read as follows:

(1) Any licensee under KRS 138.195 who violates any provision of KRS 138.130 to 138.205, or any administrative regulation promulgated under them, shall become indebted to the Commonwealth in the sum of five hundred dollars ($500) for each violation. The civil penalty may be collected by action in the Franklin Circuit Court.

(2) Any manufacturer who fails to keep written records, and submit reports to the *department*~~[cabinet]~~, as required by the provisions of subsection (10) of KRS 138.195, shall become indebted to the Commonwealth in the sum

of one thousand dollars ($1,000) for each violation. The penalty may be enforced by action of the Franklin Circuit Court.

(3) Any manufacturer doing business within this state without having complied with the provisions of KRS Chapter 271B as to designation of process agent shall, by so doing of business, be deemed to have made the Secretary of State its agent for the service of process in any civil action instituted in the Franklin Circuit Court for the recovery of the penalty. In any action, the complaint shall set forth the post office address of the home office of the manufacturer.

(4) Any nonresident person licensed under the provisions of KRS 138.195 shall, at the time of application for license, designate some resident of this state as a process agent for the purpose of service of civil process in any civil action originating in any court of this Commonwealth, and service upon the person so designated shall be sufficient to bring the nonresident person before any court of this Commonwealth for all purposes.

(5) Any person acting in the capacity of a licensee under the provisions of KRS 138.130 to 138.205 without having secured a license as provided in KRS 138.195 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

Section 352. KRS 138.207 is amended to read as follows:

The *Department of* Revenue~~[Cabinet]~~ may by regulation refund or waive the cigarette tax imposed by the provisions of this chapter on any cigarettes donated to hospitals or other eleemosynary institutions for the benefit of, or for the use of, patients or inmates of such institutions. The *department*~~[cabinet]~~ shall also prescribe the method by which cigarettes donated shall be transferred to any such institutions.

Section 353. KRS 138.210 is amended to read as follows:

As used in KRS 138.220 to 138.446, unless the context requires otherwise:

(1) "Accountable loss" means loss or destruction of "received" gasoline or special fuel through wrecking of transportation conveyance, explosion, fire, flood or other casualty loss, or contaminated and returned to storage. The loss shall be reported within thirty (30) days after discovery of the loss to the *department*~~[cabinet]~~ in a manner and form prescribed by the *department*~~[cabinet]~~, supported by proper evidence which in the sole judgment of the *department*~~[cabinet]~~ substantiates the alleged loss or contamination and which is confirmed in writing to the reporting dealer by the *department*~~[cabinet]~~. The *department*~~[cabinet]~~ may make any investigation deemed necessary to establish the bona fide claim of the loss;

(2) "Gasoline dealer" or "special fuels dealer" means any person who is:

(a) Regularly engaged in the business of refining, producing, distilling, manufacturing, blending, or compounding gasoline or special fuels in this state;

(b) Regularly importing gasoline or special fuel, upon which no tax has been paid, into this state for distribution in bulk to others;

(c) Distributing gasoline from bulk storage in this state;

(d) Regularly engaged in the business of distributing gasoline or special fuels from bulk storage facilities primarily to others in arm's-length transactions;

(e) In the case of gasoline, receiving or accepting delivery within this state of gasoline for resale within this state in amounts of not less than an average of one hundred thousand (100,000) gallons per month during any prior consecutive twelve (12) months' period, when in the opinion of the *department*~~[cabinet]~~, the person has sufficient financial rating and reputation to justify the conclusion that he will pay all taxes and comply with all other obligations imposed upon a dealer; or

(f) Regularly exporting gasoline or special fuels;

(3) *"Department"*~~["Cabinet"]~~ means the *Department of* Revenue~~[Cabinet]~~;

(4) (a) "Gasoline" means all liquid fuels, including liquids ordinarily, practically, and commercially usable in internal combustion engines for the generation of power, and all distillates of and condensates from petroleum, natural gas, coal, coal tar, vegetable ferments, and all other products so usable which are produced, blended, or compounded for the purpose of operating motor vehicles, showing a flash point of 110 degrees Fahrenheit or below, using the Eliott Closed Cup Test, or when tested in a manner

approved by the United States Bureau of Mines, are prima facie commercially usable in internal combustion engines. The term "gasoline" as used herein shall include casing head, absorption, natural gasoline, and condensates when used without blending as a motor fuel, sold for use in motors direct, or sold to those who blend for their own use, but shall not include: propane, butane, or other liquefied petroleum gases, kerosene, cleaner solvent, fuel oil, diesel fuel, crude oil or casing head, absorption, natural gasoline and condensates when sold to be blended or compounded with other less volatile liquids in the manufacture of commercial gasoline for motor fuel, industrial naphthas, rubber solvents, Stoddard solvent, mineral spirits, VM and P & naphthas, turpentine substitutes, pentane, hexane, heptane, octane, benzene, benzine, xylol, toluol, aromatic petroleum solvents, alcohol, and liquefied gases which would not exist as liquids at a temperature of sixty (60) degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute, unless the products are used wholly or in combination with gasoline as a motor fuel;

(b) "Special fuels" means and includes all combustible gases and liquids capable of being used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, including diesel fuel, and dyed diesel fuel used exclusively for nonhighway purposes in off-highway equipment and in nonlicensed motor vehicles, except that it does not include gasoline, aviation jet fuel, kerosene unless used wholly or in combination with special fuel as a motor fuel, or liquefied petroleum gas as defined in KRS 234.100;

(c) "Diesel fuel" means any liquid other than gasoline that, without further processing or blending, is suitable for use as a fuel in a diesel powered highway vehicle. Diesel fuel does not include unblended kerosene, No. 5, and No. 6 fuel oil as described in ASTM specification D 396 or F-76 Fuel Naval Distillate MILL-F-166884;

(d) "Dyed diesel fuel" means diesel fuel that is required to be dyed under United States Environmental Protection Agency rules for high sulfur diesel fuel, or is dyed under the Internal Revenue Service rules for low sulfur fuel, or pursuant to any other requirements subsequently set by the United States Environmental Protection Agency or the Internal Revenue Service;

(5) "Received" or "received gasoline" or "received special fuels" shall have the following meanings:

(a) Gasoline and special fuels produced, manufactured, or compounded at any refinery in this state or acquired by any dealer and delivered into or stored in refinery, marine, or pipeline terminal storage facilities in this state shall be deemed to be received when it has been loaded for bulk delivery into tank cars or tank trucks consigned to destinations within this state. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the dealer to collect the tax, it shall be presumed that all gasoline and special fuel loaded by any licensed dealer within this state into tank cars or tank trucks is consigned to destinations within this state, unless the contrary is established by the dealer, pursuant to rules and regulations prescribed by the cabinet; and

(b) Gasoline and special fuel acquired by any dealer in this state, and not delivered into refinery, marine, or pipeline terminal storage facilities, shall be deemed to be received when it has been placed into storage tanks or other containers for use or subject to withdrawal for use, delivery, sale, or other distribution. Dealers may sell gasoline or special fuel to licensed bonded dealers in this state in transport truckload, carload, or cargo lots, withdrawing it from refinery, marine, pipeline terminal, or bulk storage tanks, without paying the tax. In such instances, the licensed bonded dealer purchasing the gasoline or special fuel shall be deemed to have received such fuel at the time of withdrawal from the seller's storage facility and shall be responsible to the state for the payment of the tax thereon;

(6) "Refinery" means any place where gasoline or special fuel is refined, manufactured, compounded, or otherwise prepared for use;

(7) "Storage" means all gasoline and special fuel produced, refined, distilled, manufactured, blended, or compounded and stored at a refinery storage or delivered by boat at a marine terminal for storage, or delivered by pipeline at a pipeline terminal, delivery station, or tank farm for storage;

(8) "Transporter" means any person who transports gasoline or special fuel on which the tax has not been paid or assumed;

(9) "Bulk storage facility" means gasoline or special fuel storage facilities of not less than twenty thousand (20,000) gallons owned or operated at one (1) location by a single owner or operator for the purpose of storing gasoline or special fuel for resale or delivery to retail outlets or consumers;

(10) "Average wholesale price" shall mean:

(a) The weighted average per gallon wholesale tank wagon price of gasoline, exclusive of the nine cents ($0.09) per gallon federal tax in effect on January 1, 1984, any increase in the federal gasoline tax after July 1, 1984, and any fee on imported oil imposed by the Congress of the United States after July 1, 1986, as determined by the *Department of* Revenue~~[Cabinet]~~ from information furnished by licensed gasoline dealers or from information available through independent statistical surveys of gasoline prices. Dealers shall furnish within twenty (20) days following the end of the first month of each calendar quarter, the information regarding wholesale selling prices for the previous month required by the *department*~~[cabinet]~~;

(b) Notwithstanding the provisions of paragraph (a) of this subsection, for purposes of the taxes levied in KRS 138.220, 138.660, and 234.320, in no case shall "average wholesale price" be deemed to be less than one dollar and eleven cents ($1.11) per gallon, and in no case shall "average wholesale price" be deemed to be more than one dollar and fifty cents ($1.50) per gallon on or before June 30, 1982. In fiscal year 1982-83, the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of fiscal year 1981-82; in each subsequent fiscal year the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of the previous fiscal year;

(11) "Motor vehicle" means any vehicle, machine, or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by the motor vehicles;

(12) "Public highways" means every way or place generally open to the use of the public as a matter or right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction;

(13) "Agricultural purposes" means purposes directly related to the production of agricultural commodities and the conducting of ordinary activities on the farm;

(14) "Retail filling station" means any place accessible to general public vehicular traffic where gasoline or special fuel is or may be placed into the fuel supply tank of a licensed motor vehicle; and

(15) "Financial instrument" means a bond issued by a corporation authorized to do business in Kentucky, a line of credit, or an account with a financial institution maintaining a compensating balance.

Section 354. KRS 138.220 is amended to read as follows:

(1) An excise tax at the rate of nine percent (9%) of the average wholesale price rounded to the third decimal when computed on a per gallon basis shall be paid on all gasoline and special fuel received in this state. Except as provided by KRS Chapter 138, no other excise or license tax shall be levied or assessed on gasoline or special fuel by the state or any political subdivision of the state. The tax herein imposed shall be paid by the dealer receiving the gasoline or special fuel to the State Treasurer in the manner and within the time specified in KRS 138.230 to 138.340 and all such tax may be added to the selling price charged by the dealer or other person paying the tax on gasoline or special fuel sold in this state. Nothing herein contained shall authorize or require the collection of the tax upon any gasoline or special fuel after it has been once taxed under the provisions of this section, unless such tax was refunded or credited.

(2) In addition to the excise tax provided in subsection (1) of this section, there is hereby levied a supplemental highway user motor fuel tax to be paid in the same manner and at the same time as the tax provided in subsection (1) of this section. Such tax shall be calculated, starting with the quarter beginning July 1, 1986, by taking the excise tax resulting from the calculation provided for in subsection (1) of this section and adjusting such tax calculated, for each quarter, to reflect decreases in the average wholesale price, as defined in KRS 138.210(10)(a). The adjustment shall be made by calculating the difference between the average wholesale price computed for the quarter beginning October 1, 1985, as provided for in subsection (3) of this section, and the average wholesale price computed for the quarter beginning July 1, 1986 and each succeeding quarter, as provided for in subsection (3) of this section. In the event of a decrease in the average wholesale price computed for the quarter beginning October 1, 1985, and ending December 31, 1985, and the average wholesale price computed for the quarter beginning July 1, 1986, and each succeeding quarter, the excise tax shall be adjusted upward for that quarter. The upward adjustment shall equal one-half (1/2) of the decrease between the two (2) quarterly periods, rounded to the third decimal. In no case shall the adjustment provided by this subsection result in a supplemental highway user motor fuel tax greater than five cents ($0.05) on

gasoline or two cents ($0.02) on special fuel and, notwithstanding any adjustment which may be calculated as provided by this subsection, in no case shall the supplemental highway user motor fuel tax for any quarter be less than the previous quarter. The supplemental highway user motor fuel tax provided by this subsection and the provisions of subsection (1) of this section shall constitute the tax on motor fuels imposed by KRS 138.220.

(3) Effective with the calendar quarter beginning July 1, 1980, the *department*~~[cabinet]~~ shall determine on a consistent basis the average wholesale price for each calendar quarter, on the basis of sales data accumulated for the first month of the preceding quarter. Notification of the average wholesale price shall be given to all licensed dealers at least twenty (20) days in advance of the first day of each calendar quarter.

(4) Dealers with a tax-paid gasoline or special fuel inventory at the time an average wholesale price becomes effective, shall be subject to additional tax or appropriate tax credit to reflect the increase or decrease in the average wholesale price for the new quarter. The *department*~~[cabinet]~~ shall promulgate such rules and regulations to properly administer this provision.

Section 355. KRS 138.224 is amended to read as follows:

It shall be presumed that all untaxed motor fuels are subject to the tax levied under KRS 138.220 unless the contrary is established pursuant to KRS 138.210 to 138.500 or administrative regulations promulgated thereunder by the *Department of* Revenue~~[Cabinet]~~. The tax shall be paid by the licensed dealer to the *department*~~[cabinet]~~. The burden of proving that any motor fuel is not subject to tax shall be upon the dealer or any person who imports, causes to be imported, receives, uses, sells, stores, or possesses untaxed motor fuel in this state. Any dealer or other person who imports, causes to be imported, receives, uses, sells, stores, or possesses untaxed motor fuels but fails to comply with all statutory and regulatory restrictions applicable to the fuel shall be jointly and severally liable for payment of the tax due on the fuel. A person's liability shall not be extinguished until the tax due has been paid to the *department*~~[cabinet]~~.

Section 356. KRS 138.226 is amended to read as follows:

(1) The *department*~~[cabinet]~~ shall administer the taxes provided under KRS 138.210 to 138.500, except KRS 138.463 and 138.4631 and may prescribe, adopt and enforce administrative regulations relating to the administration and enforcement thereof.

(2) The *department*~~[cabinet]~~ shall, upon the request of the officials to whom are entrusted the enforcement of the motor fuels tax law of any other state, the United States, the provinces of the Dominion of Canada, forward to such officials any information which it may have relative to the manufacture, receipt, sale, use, transportation, shipment or delivery by any person of motor fuels, provided such other state or states provide for the furnishing of like information to this state.

Section 357. KRS 138.230 is amended to read as follows:

Every dealer receiving gasoline or special fuel in this state shall keep, and preserve for five (5) years, an accurate record of all receipts and of all production, refining, manufacture, compounding, use, sale, distribution and delivery of gasoline and special fuel, together with invoices, bills of lading and other pertinent records and papers required by the *Department of* Revenue~~[Cabinet]~~. Every person purchasing gasoline or special fuel from a dealer for resale shall keep, and preserve for a period of five (5) years, a record of all such gasoline or special fuel so purchased and sold or used, and the amount of tax paid to the dealers as part of the purchase price, together with delivery tickets, invoices, bills of lading and such other records as the *department*~~[cabinet]~~ shall require.

Section 358. KRS 138.240 is amended to read as follows:

(1) Every gasoline dealer and every special fuels dealer, or the treasurer or other proper officer or agent of every such dealer, shall, by the twenty-fifth day of each month, transmit to the *Department of* Revenue~~[Cabinet]~~ reports on the forms the *department*~~[cabinet]~~ may prescribe, of the total number of gallons of gasoline and special fuel received in this state during the next preceding calendar month. This report shall include the following information:

(a) An itemized statement of the number of gallons received that have been produced, refined, manufactured, or compounded by the dealer in this state during the next preceding calendar month; and

(b) An itemized statement of the number of gallons received by the dealer in this state from any source during the next preceding calendar month, as shown by shippers' invoices, other than the gasoline and special fuel falling within the provisions of paragraph (a) of this subsection, together with a statement showing the date of receipt, the name of the person from whom purchased, the date of receipt of each

shipment, the point of origin and the point of destination, the quantity of each purchase or shipment, the name of the carrier, the initials and number of each tank car, the date of receipt, and the number of gallons contained in each car if shipped by rail or the name and owner of the boat, ship, truck, transport, barge, or vessel if shipped by water.

(2) The reports required by subsection (1) of this section shall also contain an itemized statement of the number of gallons received by the dealer during the preceding calendar month of:

(a) Gasoline and special fuels sold to the United States government, including sales or deliveries to others who sell or deliver the gasoline or special fuels to the United States government, for use exclusively in equipment or vehicles owned or leased by the United States government;

(b) Gasoline and special fuels sold for delivery in this state in transport truck, tank car, or cargo lots to licensed bonded dealers. The statement shall give a record of all such transport truck, tank car, or cargo sales, giving the date of shipment, the number of gallons contained in each shipment, the name of owner and license number of truck if shipped by transport truck, the initials and number of the tank car if shipped by rail, the name and owner of the boat, barge, or vessel, and the number of gallons contained therein if shipped by water, and the name of the person to whom sold, point of shipment, and point of delivery;

(c) Gasoline and special fuels lost through accountable losses;

(d) Gasoline and special fuel exported from this state to any other state in transport truck, tank car or cargo lots;

(e) Gasoline or special fuel delivered upon or immediately adjacent to a river or stream, if:

1. The gasoline or special fuel is or will be delivered into the fuel supply tank of a commercial ship or vessel which has a valid certificate of documentation issued by the United States Coast Guard; and

2. All the fuel will be used exclusively in the operation of a commercial ship or vessel.

(f) Special fuel delivered to a railroad company principally engaged in the commercial transportation of property for others as a common carrier or in the conveyance of persons for hire, if the railroad company is the holder of a Kentucky motor fuels tax refund permit and certifies that the fuel is to be used exclusively for the purpose of powering locomotives and unlicensed company vehicles or equipment for nonhighway use. Railroad company as used herein shall not include any company described in KRS 136.120(4)(a) in effect on August 1, 1988; and

(g) Special fuels used in unlicensed vehicles or equipment by licensed special fuels dealers for nonhighway purposes related to the distribution of gasoline or special fuels to others.

(3) All gasoline and special fuel gallons received or distributed by a dealer from marine terminal, refinery or pipeline terminal storage in this state shall be reported at sixty (60) degrees Fahrenheit.

Section 359. KRS 138.250 is amended to read as follows:

(1) Any person who produces, refines, manufactures or compounds gasoline or special fuel in this state shall, by the twenty-fifth day of each month, file a report with the *Department of* Revenue~~[Cabinet]~~, on forms prescribed by it, covering the next preceding calendar month, showing the number of gallons of gasoline and special fuels at sixty (60) degrees Fahrenheit produced, refined, manufactured or compounded, the number of gallons at sixty (60) degrees Fahrenheit withdrawn from storage and received and the number of gallons withdrawn at sixty (60) degrees Fahrenheit from refinery storage and shipped to points outside of this state, and the number of gallons at sixty (60) degrees Fahrenheit withdrawn from refinery storage and shipped to points within this state upon which the tax has not been paid. This report shall give in detail such information as the *department*~~[cabinet]~~ may require, regarding each separate shipment, the date of shipment, the number of gallons at sixty (60) degrees Fahrenheit in each shipment, the name of owner and license number of truck if shipped by transport truck, the initial and number of tank car if shipped by rail, the name and owner of barge if shipped by water, the name and address of person to whom shipped, the point of shipment, the point of destination and the name of carrier to whom delivered for transportation to destination.

(2) Any person who imports and stores gasoline or special fuel in any marine or pipeline terminal storage in this state, shall by the twenty-fifth day of the month, file a report with the *Department of* Revenue~~[Cabinet]~~, on forms prescribed by it, covering the next preceding calendar month, showing the number of gallons of gasoline

and special fuels at sixty (60) degrees Fahrenheit unexported and stored, the number of gallons at sixty (60) degrees Fahrenheit withdrawn from storage and received, the number of gallons at sixty (60) degrees Fahrenheit withdrawn from storage and shipped to points outside of this state, and the number of gallons at sixty (60) degrees Fahrenheit withdrawn from storage and shipped to points within this state, upon which the tax has not been paid. This report shall give in detail such information as the *department*~~[cabinet]~~ may require, regarding each separate shipment, the date of shipment, the number of gallons at sixty (60) degrees Fahrenheit in each shipment, the name of owner and license number of truck if shipped by transport truck, the initial and number of tank car if shipped by rail, the name and owner of barge if shipped by water, the name and address of person to whom shipped, the point of shipment and point of destination, and the name of carrier to whom delivered for transportation to destination.

(3) There shall be allowed a monthly deduction for evaporation, shrinkage or unaccountable losses while in storage, of that number of gallons equal to the actual loss of gasoline or special fuel so sustained out of the total number of gallons of gasoline or special fuel stored in any marine terminal, refinery or pipeline terminal, except that such deduction may not in any event exceed three-fourths of one percent of the total number of gallons of gasoline or special fuel stored in any marine terminal, refinery or pipeline terminal. The remaining gasoline and special fuel placed in storage must be fully accounted for as in physical inventory, accountable loss, withdrawn for export or withdrawn from storage and received for taxable purposes.

(4) The number of gallons of gasoline or special fuel added to marine, pipeline or refinery storage shall be determined by the *department*~~[cabinet]~~ by actual measurement of terminal storage tanks in the manner it deems necessary.

Section 360. KRS 138.260 is amended to read as follows:

Every transportation company and every other person transporting gasoline or special fuel from without this state to points within this state, or between points within this state, shall report to the *Department of* Revenue~~[Cabinet]~~ on forms prescribed by the *department*~~[cabinet]~~. The reports shall give the name and address of each person to whom deliveries of gasoline or special fuel have been made, the name and address of the original consignee if deliveries are made to any other than the original consignee, the name and address of the consignor, the point of origin, the point of delivery, the date of delivery, the number and initials of each tank car if shipped by rail, the quantity of each shipment and delivery in gallons, the manner of shipment and delivery, and such other information as the *department*~~[cabinet]~~ may require relative to the transportation and delivery of such fuel. The reports shall include intracity switching movements in tank cars or otherwise. The reports shall be made under oath and shall be filed by the twenty-fifth day of each month, covering all such deliveries made within this state during the preceding calendar month.

Section 361. KRS 138.270 is amended to read as follows:

(1) (a) From the total number of gallons of gasoline and special fuel received by the dealer within this state during the next preceding calendar month, deductions shall be made for the total number of gallons received by the dealer within this state that were sold or otherwise disposed of during the next preceding calendar month as set forth in subsection (2) of KRS 138.240.

(b) To cover evaporation, shrinkage, unaccountable losses, collection costs, bad debts, and handling and reporting the tax, each dealer shall be allowed compensation equal to two and one-fourth percent (2.25%) of the net tax due the Commonwealth pursuant to KRS 138.210 to 138.500 before all allowable tax credits, except the credit authorized pursuant to KRS 138.358. No compensation shall be allowed if the completed tax return and payment are not submitted to the *Department of* Revenue~~[Cabinet]~~ within the time prescribed by KRS 138.210 to 138.500.

(2) The tax imposed by KRS 138.220(1) and (2) shall be computed on the number of gallons remaining after the deductions set forth in subsection (1) of this section have been made, and shall constitute the amount of tax payable for the next preceding calendar month.

(3) Notwithstanding any other provision of this chapter to the contrary, any person who shall remit to the *department*~~[cabinet]~~, by the twenty-fifth day of the next month, an estimated tax due amount equal to not less than ninety-five percent (95%) of his tax liability, as finally determined for the report month, shall not be required to file the monthly reports required by this chapter until the last day of the month following the report month, and shall be permitted to claim as a credit against the tax liability shown due on the report the estimated tax due amount so paid.

Section 362. KRS 138.280 is amended to read as follows:

(1) The reports required by KRS 138.240 shall be accompanied by a certified or cashier's check, payable to the State Treasurer, for the amount of tax due for the preceding calendar month, computed as provided in KRS 138.270; except that the *department*~~[cabinet]~~ may waive this requirement and accept the dealer's check where the dealer is of sound financial condition and has established a good record of compliance with the requirements of KRS 138.210 to 138.340.

(2) By virtue of the allowance provided by KRS 138.270 to dealers for collecting and remitting the tax, every dealer is a trust officer of the state.

Section 363. KRS 138.300 is amended to read as follows:

No dealer or other person shall fail or refuse to make the returns and pay the tax prescribed by KRS 138.220 to 138.280, or refuse to permit the *Department of Revenue*~~[revenue cabinet]~~ or its representatives appointed by the *commissioner of the Department of Revenue*~~[secretary of revenue]~~ in writing to examine his records, papers, files and equipment pertaining to the taxable business. No person shall make an incomplete, false or fraudulent return, or do or attempt to do anything to avoid a full disclosure of the amount of business done or to avoid the payment of the whole or any part of the tax or penalties due. No person shall fail to keep and preserve records of gasoline and special fuel manufactured, transported, received, used, sold or delivered or to make reports as required by KRS 138.230 to 138.280.

Section 364. KRS 138.310 is amended to read as follows:

(1) No person shall refine, produce, distill, manufacture, blend, compound, receive, use, sell, transport, store, or distribute any gasoline or special fuel upon which the tax due has not been paid or assumed or engage in the sale, storage or transportation of any gasoline or special fuel within this state upon which the tax has not been paid unless he is the holder of an uncanceled license issued by the *Department of* Revenue~~[Cabinet]~~ to engage in the business.

(2) Any transporter, other than a regularly licensed gasoline or special fuel dealer, transporting gasoline or special fuel by motor vehicle shall have plainly painted on the vehicle the name, address, and permit number of the transporter.

(3) Any person who engages in the business of refining, producing, distilling, manufacturing, blending, compounding, receiving, using, selling, transporting, storing, or distributing gasoline or special fuel in this state as a dealer, storage operator, or transporter without holding an uncanceled license to engage in that business, or who without the license, refines, produces, distills, manufacturers, blends, compounds, receives, uses, sells, transports, stores, or distributes any gasoline or special fuel upon which the tax imposed by KRS 138.220 has not been reported and paid, shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

Section 365. KRS 138.320 is amended to read as follows:

(1) To procure the license required by KRS 138.310, every dealer or transporter so required shall file with the *Department of* Revenue~~[Cabinet]~~ an application in such form and containing such information as the *department*~~[cabinet]~~ may deem necessary.

(2) If the dealer or transporter is a corporation organized under the laws of another state, it shall file with its application a certified copy of the certificate or license issued by the Secretary of State of this state showing that the corporation is authorized to transact business in this state.

(3) At the time of filing application for a license, a bond of the character stipulated and in the amount provided for in KRS 138.330 shall be filed with the *department*~~[cabinet]~~. No license shall be issued upon any application unless accompanied by this bond.

(4) If application for such a license is filed by any person whose license has at any time previously been canceled for cause by the *department*~~[cabinet]~~, or if the *department*~~[cabinet]~~ is of the opinion that the application is not filed in good faith, or that the application is filed by some person as a subterfuge for the real person in interest whose license or registration has previously been canceled for cause by the *department*~~[cabinet]~~, the *department*~~[cabinet]~~ may, after a hearing of which the applicant has been given five (5) days' notice in writing, and in which the applicant shall have the right to appear in person or by counsel and present testimony, refuse to issue a license to that person.

(5) The application in proper form having been accepted for filing, and the bond having been accepted and approved, the *department*~~[cabinet]~~ shall issue to the applicant a license, subject to cancellation as provided by

KRS 138.340. The license shall not be assignable, and shall be valid only for the person in whose name it is issued, and shall be displayed conspicuously in the principal place of business of the dealer in this state.

(6) The *department*~~[cabinet]~~ shall keep and file all applications and bonds, with an alphabetical index thereof, together with a record of all licensed dealers or transporters. The *department*~~[cabinet]~~ shall publish and keep currently up to date a list of licensed dealers and transporters, and transmit a copy of list and all revisions thereof to all licensed dealers and transporters.

(7) All licenses shall be valid and remain in full force and effect until suspended or revoked for cause or otherwise canceled.

Section 366. KRS 138.321 is amended to read as follows:

Any gasoline dealer or special fuels dealer having a license revoked for the violation of any of the provisions contained in KRS Chapter 138 may, within the discretion of the *department*~~[cabinet]~~, be denied the issuance of a gasoline dealer or special fuels dealer license, and any such licensee shall not have an interest in any such license, either disclosed or undisclosed, whether as an individual, partnership, corporation or otherwise.

Section 367. KRS 138.330 is amended to read as follows:

(1) Every dealer or transporter required to be licensed under KRS 138.310 shall file with the *Department of* Revenue~~[Cabinet]~~ a financial instrument in an amount not to exceed three (3) months' estimated liability as computed by the *department*~~[cabinet]~~ or five thousand dollars ($5,000) whichever is greater, or in the case of a new licensee in the minimum amount of five thousand dollars ($5,000) until such time as an estimated three (3) months' liability can be established, provided that the maximum amount of any financial instrument may be reduced to an amount sufficient in the opinion of the *department*~~[cabinet]~~, considering the financial rating and reputation of the company, to insure payment to the *department*~~[cabinet]~~ of the amount of tax, penalties and interest for which the dealer or transporter may become liable. The financial instrument shall be on a form and with a surety approved by the *department*~~[cabinet]~~. The dealer or transporter shall be the principal obligor and the state the obligee. The financial instrument shall be conditioned upon the prompt filing of true reports by the dealer and transporter and the payment by the dealer to the State Treasurer of all gasoline and special fuel excise taxes now or hereafter imposed by the state, together with all penalties and interest thereon, and generally upon faithful compliance with the provisions of KRS 138.210 to 138.340.

(2) If liability upon the financial instrument is discharged or reduced, whether by judgment rendered, payment made, or otherwise, or if in the opinion of the *department*~~[cabinet]~~ any surety on the financial instrument has become unsatisfactory or unacceptable, the *department*~~[cabinet]~~ may require the licensee to file a new financial instrument with satisfactory sureties in the same amount, failing which the *department*~~[cabinet]~~ shall cancel the license of the licensee in accordance with the provisions of KRS 138.340. If a new financial instrument is furnished as provided above, the *department*~~[cabinet]~~ shall cancel and surrender the financial instrument for which the new financial instrument is substituted.

(3) If upon hearing, of which the licensee shall be given five (5) days' notice in writing, the *department*~~[cabinet]~~ decides that the amount of the existing financial instrument is insufficient to insure payment to the state of the amount of tax, penalties, and interest for which the licensee is or may become liable, the licensee shall, upon the written demand of the *department*~~[cabinet]~~, file an additional financial instrument in the same manner and form with a surety thereon approved by the *department*~~[cabinet]~~, in any amount determined by the *department*~~[cabinet]~~ to be necessary, failing which the *department*~~[cabinet]~~ shall cancel the license of the licensee in accordance with the provisions of KRS 138.340.

(4) Any surety on a financial instrument furnished as required by this section shall be released from all liability to the state accruing on the financial instrument after the expiration of sixty (60) days from the date upon which the surety has lodged with the *department*~~[cabinet]~~ a written request to be released, but this request shall not operate to release the surety from any liability already accrued or which shall accrue before the expiration of the sixty (60) day period. The *department*~~[cabinet]~~ shall promptly, upon receipt of a request, notify the licensee who furnished the financial instrument, and unless the licensee, before the expiration of the sixty (60) day period, files with the *department*~~[cabinet]~~ a new financial instrument with a surety satisfactory to the *department*~~[cabinet]~~ in the amount and form prescribed in this section, the *department*~~[cabinet]~~ shall cancel the license of the licensee in accordance with the provisions of KRS 138.340. If an approved new financial instrument is filed, the *department*~~[cabinet]~~ shall cancel and surrender the financial instrument for which the new bond is substituted.

Section 368. KRS 138.340 is amended to read as follows:

(1) If any dealer or transporter required to be licensed under KRS 138.310 files a false report of the data or information required by KRS 138.210 to 138.280, or fails, refuses or neglects to file the reports required by those sections, even though no tax is due, or to pay the full amount of tax as required by those sections, or fails to meet the qualifications of a dealer as set out in KRS 138.210(2), or violates any other provision of this chapter, the license of the dealer or transporter may be revoked by the *Department of* Revenue~~[Cabinet]~~. The licensee shall be notified by certified or registered letter or summons. The letter or summons shall apprise the licensee of the charge or charges made against him and he shall have a reasonable opportunity to be heard before his license may be revoked. The summons may be served in the same manner and by the same officers or persons as provided by the Rules of Civil Procedure, or it may be served in that manner by an employee of the *Department of* Revenue~~[Cabinet]~~. The hearing shall be set at least five (5) days after the summons is served or the letter delivered. Any aggrieved licensee may appeal from an order of revocation by the *Department of* Revenue~~[Cabinet]~~ to the Kentucky Board of Tax Appeals as provided by law, subject to the condition that the licensee has made bond sufficient in the opinion of the *Department of* Revenue~~[Cabinet]~~ to protect the Commonwealth from loss of revenue.

(2) The *department*~~[cabinet]~~ may cancel the license:

(a) Upon request in writing from the licensee, the cancellation to become effective sixty (60) days from the date of receipt of the request; or

(b) Upon determination that the licensee has had no reportable activity in Kentucky for at least the immediately preceding six (6) consecutive monthly reporting periods.

Section 369. KRS 138.341 is amended to read as follows:

(1) When gasoline or special fuel on which the tax has been paid pursuant to the provisions of KRS 138.210 to 138.340 has been used for the purpose of operating any aircraft engaged in the transportation of persons or property, the purchaser of the liquid fuel so used shall be reimbursed for the tax paid. No tax shall be refunded except that paid upon the fuel used exclusively in aircraft motors.

(2) No person shall be entitled to a refund hereunder unless he shall have first filed with the *Department of* Revenue~~[Cabinet]~~ a bond with approved surety in an amount of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) to be determined by the *Department of* Revenue~~[Cabinet]~~, conditioned upon faithful compliance with this section and KRS 138.342 and upon the payment to the Commonwealth of any refunds to which he was not entitled.

(3) The right to receive any refund pursuant to subsection (1) of this section shall be assignable by the purchaser to the seller of the gasoline or special fuel if the seller has posted a bond with the *department*~~[cabinet]~~ and the aviation gasoline or special fuel purchased by the assignor is delivered directly into the fuel tank of aircraft owned or operated by him or his authorized agent. Any assignment shall be evidenced by noting upon the face and all copies of the retail sale invoice the following: "TAX REFUND ASSIGNED TO SELLER. Signed: (Purchaser or Agent.)"

Section 370. KRS 138.342 is amended to read as follows:

(1) Applications for refund pursuant to KRS 138.341 shall be made to the *department*~~[cabinet]~~ on a calendar quarter or calendar year basis on forms and in the manner prescribed by it for the refund of tax paid on aviation motor fuel used during the calendar quarter or calendar year. Each application for a refund shall show the number of gallons of aviation motor fuel purchased during the preceding month; the date and quantity of each purchase; the vendor from whom the fuel was purchased; the number of gallons on which refund is claimed; and other information the *department*~~[cabinet]~~ may require.

(2) The *department*~~[cabinet]~~ shall audit the application and make other investigation it deems necessary to determine whether it constitutes a proper claim. When the *department*~~[cabinet]~~ is satisfied that a refund is proper, it shall authorize the tax paid to be refunded as other refunds are made and the amount refunded shall be deducted from current motor fuel tax receipts. The tax shall be refunded with interest at the tax interest rate as defined in KRS 131.010(6).

(3) When the *department*~~[cabinet]~~ finds that an application for a refund contains a false or fraudulent statement or that a refund has been fraudulently obtained, the *department*~~[cabinet]~~ shall refuse to grant any refunds to the person making the false or fraudulent statement or fraudulently obtaining a refund for a period of two (2) years from the date of the finding.

Section 371. KRS 138.344 is amended to read as follows:

(1) Except as otherwise provided in KRS 138.220 to 138.500, any person who shall purchase gasoline or special fuel, on which the tax as imposed by KRS 138.220 has been paid, for the purpose of operating or propelling stationary engines or tractors for agricultural purposes, or who shall purchase special fuels, on which the tax as imposed by KRS 138.220 has been paid, for consumption in unlicensed vehicles or equipment for nonhighway purposes shall be reimbursed for the tax so paid on the gasoline or special fuel. No refund shall be authorized unless applications and all necessary information are filed with the *department*~~[cabinet]~~ on a calendar quarter or calendar year basis on forms and in the manner prescribed by it for refund of the tax paid on the fuel. In lieu of the tax refund procedure, the tax on special fuels and the tax on gasoline used for the purpose of operating or propelling stationary engines or tractors for agricultural purposes may be credited by the dealer to the purchaser as provided in KRS 138.358. The dealer and the purchases shall be subject to the same rules, conditions, and responsibilities as provided in KRS 138.344 to 138.355. The tax shall be refunded with interest at the tax interest rate as defined in KRS 131.010(6).

(2) The information to be required from the permit holder, by the *department*~~[cabinet]~~, in order that the refund may be allowed, shall be as follows:

(a) Name and address of permit holder .... permit number .....

(b) Total number of gallons purchased .... and total purchase price ..... (Invoices to be attached to refund application.)

(c) Total number of gallons used on highways .....

(d) Total number of gallons on which refund is claimed ..... (Line b minus line c.)

(e) Other information as the *department*~~[cabinet]~~ may require to reasonably protect the revenues of the Commonwealth.

Section 372. KRS 138.345 is amended to read as follows:

No person shall secure a refund of tax under KRS 138.344 unless the person is the holder of an unrevoked refund permit issued by the *Department of* Revenue~~[Cabinet]~~ before the purchase of the gasoline or special fuel, which permit shall entitle the person to make application for a refund under KRS 138.344 to 138.355. To procure a permit, every person shall file with the *department*~~[cabinet]~~ an application under oath, on forms furnished by the *department*~~[cabinet]~~, setting forth the information incident to the refunding of the tax paid on gasoline or special fuel as the *department*~~[cabinet]~~ may require. The properly completed and signed application shall be filed with the *department*~~[cabinet]~~ on or before the date the permit, if approved by the *department*~~[cabinet]~~, is to become effective.

Section 373. KRS 138.346 is amended to read as follows:

The *department*~~[cabinet]~~ may require the applicant to execute a corporate surety bond to be approved by the *department*~~[cabinet]~~, conditioned upon the payment of all taxes, penalties and fines for which such applicant may become liable under KRS 138.344 to 138.355. Such bond shall be in an amount equal to an applicant's one (1) year estimated refund claim, but not less than one thousand dollars ($1,000).

Section 374. KRS 138.347 is amended to read as follows:

(1) Each licensed gasoline and special fuel dealer shall, in accordance with the *department's*~~[cabinet's]~~ requirements, keep at his principal place of business in this state a complete record of all such gasoline and special fuel sold by him under gasoline refund invoices provided for in KRS 138.351, which records shall give the date of each such sale, the number of gallons sold, the name of the person to whom sold and the sale price.

(2) Every person to whom a refund permit has been issued under KRS 138.345 shall, in accordance with the *department's*~~[cabinet's]~~ requirements, keep at his residence or principal place of business in this state a record of each purchase of gasoline and special fuel from a licensed dealer or the dealer's authorized agent, the number of gallons purchased, the name of the seller, and the date of purchase.

(3) The records required to be kept under subsections (1) and (2) of this section shall at all reasonable hours be subject to inspection by the *department*~~[cabinet]~~ or by any person duly authorized by it. Such records shall be preserved and shall not be destroyed until five (5) years after the date the gasoline and special fuel to which they relate was sold and purchased.

Section 375. KRS 138.348 is amended to read as follows:

(1) The *department*~~[cabinet]~~ may require any dealer or any dealer's authorized agent to identify refund gasoline or special fuel sold by him by adding thereto any chemical or substance, which shall be furnished by the cabinet and used in the manner as prescribed by the *department*~~[cabinet]~~.

(2) The refund permit holder shall receive and store all the gasoline and special fuel in containers plainly marked with distinguishing letters "Refund Motor Fuel," or comparable letters prescribed by the *Department of* Revenue~~[Cabinet]~~, and shall keep the containers on his premises accessible to agents of the *department*~~[cabinet]~~ and separate from other gasoline and special fuel stored on his premises.

(3) The *Department of* Revenue~~[Cabinet]~~ may, within its discretion, issue a refund permit for a portable storage facility if the applicant satisfies the *department*~~[cabinet]~~ that the facility will be used exclusively for the purpose of fueling unlicensed vehicles or equipment at multiple locations for nonhighway purposes, and fueling the vehicles or equipment from a nonportable facility would not be practical.

(4) Every refund permit holder who uses on the public highways motor fuel of the type for which refund is claimed shall keep detailed records of all the motor fuel acquired, monthly odometer readings of all licensed motor vehicles owned or operated by the holder which use the fuel, and other records the *Department of* Revenue~~[Cabinet]~~ may, in writing, require to protect the revenues of the Commonwealth.

(5) Agents of the *department*~~[cabinet]~~ may go upon the premises of any permit holder or of any licensed gasoline or special fuel dealer or his authorized agent to make inspections to ascertain any matter connected with the operation of KRS 138.344 to 138.355 or the enforcement thereof. No agent shall enter the dwelling of any person without the occupant's consent or the authority from a court of competent jurisdiction.

Section 376. KRS 138.351 is amended to read as follows:

(1) When gasoline or special fuel is sold to a person who shall claim to be entitled to refund under KRS 138.344, the licensed dealer or his duly authorized agent who sells the gasoline or special fuel shall make out in duplicate a gasoline or special fuel refund invoice supplied or approved in writing by the *department*~~[cabinet]~~, which invoice shall have printed thereon that the liability to the Commonwealth of Kentucky for the excise tax imposed under KRS 138.220 with respect to the gasoline or special fuel has been assumed by the seller and that the excise tax has already been paid or will be paid by the seller when the same shall become payable, a statement setting forth the name and address of the purchaser, the number of gallons of gasoline or special fuel so sold, the proposed use for which the gasoline or special fuel is purchased, and other information as the *department*~~[cabinet]~~ shall require. The original gasoline or special fuel refund invoice shall be given to the purchaser, and the duplicate shall be retained by the seller.

(2) The refund permit holder shall file with the *department*~~[cabinet]~~ an application for refund on forms furnished by the *department*~~[cabinet]~~, stating the quantity of gasoline and special fuel used for the purposes as set out in KRS 138.344. The application shall be accompanied by the original invoice, or certified copy thereof, showing the purchase, and, if required by the *department*~~[cabinet]~~, evidence of payment therefor. When the *department*~~[cabinet]~~ is satisfied that a refund is proper, it shall authorize the tax paid to be refunded as other refunds are made; and the amount refunded shall be deducted from gasoline or special fuel tax receipts as appropriate.

(3) The right to receive any refund under the provisions of this section shall not be assignable, except to the executor or administrator, or to the receiver, trustee in bankruptcy, or assignee in insolvency proceedings of the person entitled thereto.

(4) Interest on refunds authorized under the provisions of this section shall be paid at the tax interest rate, as defined in KRS 131.010(6), and shall begin to accrue sixty (60) days after the postmark date of the application for refund.

Section 377. KRS 138.353 is amended to read as follows:

If any excise taxes on gasoline or special fuel be erroneously refunded, the *department*~~[cabinet]~~ shall issue an assessment for the amount erroneously refunded. The refund error shall be assessed, collected, and paid in the same manner as if it were a deficiency.

Section 378. KRS 138.354 is amended to read as follows:

(1) No person shall make a false or fraudulent statement in an application for a refund permit or in a gasoline or special fuel refund invoice, or in an application for a refund of any taxes as set out in KRS 138.344 to 138.355; or fraudulently obtain a refund of such taxes; or knowingly aid or assist in making any such false or fraudulent

statement or claim; or having bought gasoline or special fuel under the provisions of KRS 138.344 to 138.355, shall use or permit such gasoline or special fuel or any part thereof to be used for any purpose other than as provided in KRS 138.344.

(2) The refund permit of any person who shall violate any provision of subsection (1) of this section may be revoked by the *Department of* Revenue~~[Cabinet]~~ subject to appeal to the Kentucky Board of Tax Appeals as provided by law, and may not be reissued until two (2) years have elapsed from the date of such revocation.

(3) The refund permit of any person who shall violate any provision of KRS 138.344 to 138.355, other than those contained in subsection (1) of this section, may be suspended by the *Department of* Revenue~~[Cabinet]~~ for any period in its discretion not exceeding six (6) months with the right of appeal to the Kentucky Board of Tax Appeals.

(4) If a dealer violates any provision of KRS 138.344 to 138.355, his privilege to sign refund invoices may be suspended by the *Department of* Revenue~~[Cabinet]~~ for a period of not more than two (2) years subject to appeal to the Kentucky Board of Tax Appeals. No refund shall be made on gasoline or special fuel purchased from a dealer while a suspension of his privilege to sign refund invoices is in effect.

Section 379. KRS 138.355 is amended to read as follows:

If the *department*~~[cabinet]~~ reasonably believes that any dealer or refund permit holder has been guilty of a violation of KRS 138.344 to 138.355, which would subject the dealer or permit holder to a suspension or revocation of his license or permit under the provisions of subsections (2), (3) or (4) of KRS 138.354, said dealer or permit holder may be cited by the *department*~~[cabinet]~~ to show cause at a public hearing before the *Department of* Revenue~~[cabinet]~~ why his license or permit should not be suspended or revoked. The dealer or refund permit holder shall be notified by certified or registered letter. The letter shall inform the dealer or refund permit holder of the charge or charges made against him and he shall have a reasonable opportunity to be heard before his license or permit may be revoked or suspended. The hearing shall be set at least five (5) days after the receipt of the letter. Any aggrieved dealer or refund permit holder may appeal any order entered to the Kentucky board of tax appeals as provided by law, subject to the condition that he make bond sufficient in the opinion of the *department*~~[cabinet]~~ to protect the Commonwealth from loss of revenue.

Section 380. KRS 138.358 is amended to read as follows:

(1) Any special fuels dealer who delivers special fuels, on which the tax imposed by KRS 138.220 has been paid, into a tank having no dispensing outlet and used exclusively to heat a personal residence, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that the fuel will be used exclusively to heat the personal residence to which it is delivered. No person so certifying shall use the special fuel for any other purpose. The *Department of* Revenue~~[Cabinet]~~ may require dealers claiming the credit authorized herein to submit information required by the *department*~~[cabinet]~~ to reasonably protect the revenues of the Commonwealth.

(2) Any special fuels dealer who sells gasoline or special fuels, on which the tax imposed by KRS 138.220 has been paid, exclusively for the purpose of operating or propelling stationary engines or tractors for agricultural purposes, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that the fuel will be used exclusively for the purpose of operating or propelling stationary engines or tractors for agricultural purposes. No person so certifying shall use gasoline or the special fuels for any other purpose. Sales made from a retail filling station do not qualify for the credit. The *Department of* Revenue~~[Cabinet]~~ may require dealers claiming the credit authorized herein to submit information required by the *department*~~[cabinet]~~ to reasonably protect the revenues of the Commonwealth.

(3) Any special fuels dealer who delivers special fuels, on which the tax imposed by KRS 138.220 has been paid, into a nonhighway use storage tank of a resident nonprofit religious, charitable, or educational organization or state or local governmental agency which has qualified for exemption from Kentucky sales and use tax pursuant to KRS 139.470(7) or 139.495 shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement certifying the purchaser's sales and use tax purchase exemption authorization issued pursuant to KRS Chapter 139. No organization or agency so certifying shall use or allow the use of any nonhighway special fuel so acquired for any purpose other than fueling unlicensed vehicles or equipment for nonhighway purposes. The *Department of* Revenue~~[Cabinet]~~ may require dealers claiming the credit

authorized herein to submit information required by the *department*~~[cabinet]~~ to reasonably protect the revenues of the Commonwealth.

(4) Any special fuels dealer who sells special fuels, on which the tax imposed by KRS 138.220 has been paid, which shall be used exclusively for consumption in unlicensed vehicles or equipment for nonhighway purposes, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that the fuel will be used exclusively for nonhighway purposes. No person making the certification shall use the special fuels for any other purpose. Sales made from a retail filling station do not qualify for the credit. The *Department of* Revenue~~[Cabinet]~~ may require dealers claiming the credit authorized in this subsection to submit information required by the *department*~~[cabinet]~~ to reasonably protect the revenues of the Commonwealth. This credit shall not apply to special fuels taxes subject to a refund under KRS 138.445.

Section 381. KRS 138.445 is amended to read as follows:

(1) Except as provided in KRS 138.240(2)(e), any person who buys any liquid fuel for the purpose of dispensing it directly into fuel tanks installed in or attached to watercraft, for the purpose of operating or propelling watercraft, shall be reimbursed for the tax paid by him pursuant to the provisions of KRS 138.220 to 138.340 upon presenting to the *department*~~[cabinet]~~ an application accompanied by the original invoices showing the payment of the purchases, including the liquid fuel tax. The application shall set forth the total amount of the liquid fuel purchased and used by the applicant in the operation or propulsion of watercraft.

(2) (a) When liquid fuel on which the tax has been paid pursuant to the provisions of KRS 138.220 to 138.340 has been used for the purpose of operating any watercraft and was delivered directly to the fuel tanks installed in or attached to the watercraft, the purchaser of the liquid fuel so used shall be reimbursed for the tax paid. No tax shall be refunded except that paid upon the fuel used exclusively in watercraft motors; and

(b) No person shall be entitled to a refund hereunder unless he shall have first filed with the *department*~~[cabinet]~~ a bond with approved surety in the amount of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) to be determined by the *department*~~[cabinet]~~ and upon the payment to the Commonwealth of any refunds to which he was not entitled.

(3) All refund claims authorized by this section shall be filed with the *department*~~[cabinet]~~ on a calendar quarter or calendar year basis on forms and in the manner prescribed by it for refund of the tax paid on the fuel. If the application for refund is mailed to the *department*~~[cabinet]~~, the date of mailing as shown by the postmark shall be taken as the time and date of filing with the *department*~~[cabinet]~~.

(4) Refunds shall be made only on gasoline and special fuels purchased by locations designated by the *department*~~[cabinet]~~. The tax shall be refunded with interest at the tax interest rate as defined in KRS 131.010(6).

Section 382. KRS 138.446 is amended to read as follows:

(1) City and suburban bus companies and taxicab companies operating under a certificate of convenience and necessity issued pursuant to KRS Chapter 281, taxicab companies regulated by a consolidated local government organized under KRS Chapter 67C or by an urban-county government organized under KRS Chapter 67A, holders of a nonprofit bus certificate as provided by KRS 281.619, and senior citizen programs which utilize Title III funds of the Older Americans Act in the provision of transportation services shall be entitled to a refund of seven-ninths (7/9) of the amount of KRS Chapter 138 taxes paid on motor fuels used in their regularly scheduled operations in Kentucky.

(2) No person shall be entitled to a refund pursuant to this section unless he shall have first filed with the *department*~~[cabinet]~~ a bond issued by a surety company authorized to do business in Kentucky in an amount of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) to be determined by the *department*~~[cabinet]~~, conditioned upon faithful compliance with this section and upon the payment to the Commonwealth of any refunds to which he was not entitled.

(3) Applications for refund shall be filed with the *department*~~[cabinet]~~ on a calendar quarter or calendar year basis on forms and in the manner prescribed by it for refund of tax paid on motor fuel used by buses or taxicabs. Each application for a refund shall show the number of gallons of motor fuel purchased during the quarter for use in buses or taxicabs; the date and quantity of each purchase; the vendor from whom the fuel was purchased;

the number of gallons on which refund is claimed; and other information the *department*~~[cabinet]~~ may require. Invoices shall be attached to applications from taxicab companies.

(4) The *department*~~[cabinet]~~ may require any gasoline dealer or any dealer's authorized agent to identify gasoline sold by him for taxicab use by adding any chemical or substance, which shall be furnished by the *department*~~[cabinet]~~ and used in the manner as prescribed by the *department*~~[cabinet]~~. The *department*~~[cabinet]~~ also may require that the dealer keep a complete record of all the gasoline sold by him, which records shall give the date of each sale, the number of gallons sold, the name of the person to whom sold, and the sale price.

(5) The *department*~~[cabinet]~~ shall audit the application and make any other investigation it deems necessary to determine whether it constitutes a proper claim. When the *department*~~[cabinet]~~ is satisfied that a refund is proper, it shall authorize seven-ninths (7/9) of the amount of the tax paid to be refunded as other refunds are made and the amount refunded shall be deducted from current motor fuel tax receipts. The tax shall be refunded with interest at the tax interest rate as defined in KRS 131.010(6).

(6) When the *department*~~[cabinet]~~ finds that an application for a refund contains a false or fraudulent statement or that a refund has been fraudulently obtained, the *department*~~[cabinet]~~ shall refuse to grant any refunds to the person making the false or fraudulent statement or fraudulently obtaining a refund for a period of two (2) years from the date of the findings.

(7) The *department*~~[cabinet]~~ may prescribe, promulgate and enforce administrative regulations relating to the administration and enforcement of this section.

(8) The refund provided for in this section shall be effective on motor fuel purchased on or after July 1, 1978.

Section 383. KRS 138.447 is amended to read as follows:

(1) A dealer may elect to be exempted from the provisions of KRS 138.330, subject to the following provisions:

(a) An election for exemption shall be made on an annual basis and shall be for a calendar year;

(b) At the conclusion of the year, the election for exemption shall continue for the next calendar year unless the dealer notifies the *Department of* Revenue~~[Cabinet]~~ of the dealer's intention to void the election for exemption by January fifteenth of the next calendar year; and

(c) If the election for exemption is voided, the provisions of KRS 138.330 immediately apply.

(2) (a) A dealer electing to be exempted from the provisions of KRS 138.330 shall file with the *department*~~[cabinet]~~ a financial instrument in an amount not to exceed two (2) months' estimated liability, as calculated by the *department*~~[cabinet]~~, or five thousand dollars ($5,000), whichever is greater.

(b) The financial instrument shall be on a form and with a surety to do business in this state.

(c) The dealer shall be the principal obligor and the state the obligee.

(d) The financial instrument shall be conditioned upon the prompt filing of true reports and the payment by the dealer to the State Treasurer of all gasoline and special fuel excise taxes now or hereafter imposed by the state, together with all penalties and interest thereon, and generally upon faithful compliance with the provisions of KRS 138.210 to 138.340.

(3) (a) In addition to the provisions of KRS 138.210 to 138.340 the dealer shall certify to the *department*~~[cabinet]~~ no later than the fifteenth day of each month the amount of gasoline and special fuels tax due the Commonwealth by the twenty-fifth day of that month.

(b) The certification shall be submitted via an electronic method acceptable by both the dealer and the cabinet.

(c) By certifying the amount of tax which is to be remitted to the *department*~~[cabinet]~~, the dealer agrees to initiate an Automated Clearing House credit transaction to electronically transfer the amount of tax from the dealer's account to the Kentucky State Treasurer on the twenty-fifth day of that month.

(d) If the dealer fails to certify the amount of tax collected as prescribed by this section or does not perform the electronic fund transfer, the *department*~~[cabinet]~~ may immediately make demand on the financial instrument and revoke the license of the dealer notwithstanding the provisions of KRS 138.340.

Section 384. KRS 138.448 is amended to read as follows:

(1) Notwithstanding any other provision of this chapter to the contrary, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of KRS 138.210 to 138.446 shall be personally and individually liable, both jointly and severally, for the tax imposed under KRS 138.210 to 138.446. Corporate dissolution, withdrawal of the corporation from the state, or the cessation of holding any corporate office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every person holding a corporate office at the time the tax becomes or became due. 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 KRS 138.210 to 138.446 at the time the tax imposed becomes or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under the provisions of this chapter, and all applicable penalties imposed under the provisions of KRS 131.180, 131.410 to 131.445, and 131.990.

(a) The provisions of this section shall not apply if a corporation on an annual basis elects to be exempt from the provisions of KRS 138.224 by:

1. Filing with the *department*~~[cabinet]~~ a financial instrument in an amount not to exceed two (2) months' estimated liability, as calculated by the *department*~~[cabinet]~~, or five thousand dollars ($5,000), whichever is greater;

2. Certifying by an electronic method acceptable by both the dealer and the *department*~~[cabinet]~~ no later than the fifteenth day of each month the amount of gasoline and special fuels tax due the Commonwealth by the twenty-fifth day of that month; and

3. Agreeing to initiate an Automated Clearing House credit transaction to electronically transfer the amount of tax from the dealer's account to the Kentucky State Treasurer on the twenty-fifth day of that month.

For the purpose of this paragraph, a "financial instrument" means a bond issued by a corporation authorized to do business in Kentucky, a line of credit, or an account with a financial institution maintaining a compensating balance.

(b) If a dealer fails to certify the amount of tax collected or does not perform the electronic fund transfer as prescribed by paragraph (a) of this subsection, the *department*~~[cabinet]~~ may immediately make demand of the financial instrument and revoke the license of the dealer notwithstanding the provisions of KRS 138.340, and the provisions of this section shall apply.

(2) Notwithstanding any other provision of this chapter, KRS 275.150, or KRS 362.220(2) to the contrary, the managers of a limited liability company and the partners of a registered limited liability partnership or any other person holding any equivalent office of a limited liability company or a registered limited liability partnership subject to the provisions of KRS 138.210 to 138.446 shall be personally and individually liable, both jointly and severally, for the tax imposed under KRS 138.210 to 138.446. Dissolution, withdrawal of the limited liability company or registered limited liability partnership from the state, or the cessation of holding any office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every manager of a limited liability company and partner of a registered limited liability partnership at the time the tax becomes or became due. 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 KRS 138.210 to 138.446 at the time the tax becomes or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under the provisions of this chapter, and all applicable penalties imposed under the provisions of KRS 131.180, 131.410 to 131.445, and KRS 131.990.

(a) The provisions of this section shall not apply if a limited liability company or a registered limited liability partnership on an annual basis elects to be exempt from the provisions of KRS 138.224 by:

1. Filing with the *department*~~[cabinet]~~ a financial instrument in an amount not to exceed two (2) months' estimated liability, as calculated by the *department*~~[cabinet]~~, or five thousand dollars ($5,000), whichever is greater;

2. Certifying by an electronic method acceptable by both the dealer and the *department*~~[cabinet]~~ no later than the fifteenth day of each month the amount of gasoline and special fuels tax due the Commonwealth by the twenty-fifth day of that month; and

3. Agreeing to initiate an Automated Clearing House credit transaction to electronically transfer the amount of tax from the dealer's account to the Kentucky State Treasurer on the twenty-fifth day of that month.

For the purpose of this paragraph, a "financial instrument" means a bond issued by a corporation authorized to do business in Kentucky, a line of credit, or an account with a financial institution maintaining a compensating balance.

(b) If a dealer fails to certify the amount of tax collected or does not perform the electronic fund transfer prescribed by paragraph (a) of this subsection, the *department*~~[cabinet]~~ may immediately make demand of the financial instrument and revoke the license of the dealer notwithstanding the provisions of KRS 138.340, and the provisions of this section shall apply.

Section 385. KRS 138.450 is amended to read as follows:

As used in KRS 138.455 to 138.470, unless the context requires otherwise:

(1) "Current model year" means a motor vehicle of either the model year corresponding to the current calendar year or of the succeeding calendar year, if the same model and make is being offered for sale by local dealers;

(2) "Dealer" means "motor vehicle dealer" as defined in KRS 190.010;

(3) "Dealer demonstrator" means a new motor vehicle or a previous model year motor vehicle with an odometer reading of least one thousand (1,000) miles that has been used either by representatives of the manufacturer or by a licensed Kentucky dealer, franchised to sell the particular model and make, for demonstration;

(4) "Historic motor vehicle" means a motor vehicle registered and licensed pursuant to KRS 186.043;

(5) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, mopeds, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;

(6) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(7) "New motor vehicle" means a motor vehicle of the current model year which has not previously been registered in any state or country;

(8) "Previous model year motor vehicle" means a motor vehicle not previously registered in any state or country which is neither of the current model year nor a dealer demonstrator;

(9) "Total consideration given" means the amount given, valued in money, whether received in money or otherwise, at the time of purchase or at a later date, including consideration given for all equipment and accessories, standard and optional, as attested to in a notarized affidavit signed by both the buyer and the seller. The signatures of the buyer and seller shall be individually notarized. "Total consideration given" shall not include:

(a) Any amount allowed as a manufacturer or dealer rebate if the rebate is provided at the time of purchase and is applied to the purchase of the motor vehicle;

(b) Any interest payments to be made over the life of a loan for the purchase of a motor vehicle; and

(c) The value of any items that are not equipment or accessories including but not limited to extended warranties, service contracts, and items that are given away as part of a promotional sales campaign;

(10) "Trade-in allowance" means the value assigned by the seller of a motor vehicle to a motor vehicle offered in trade by the purchaser as part of the total consideration given by the purchaser and included in the notarized affidavit attesting to total consideration given;

(11) "Used motor vehicle" means a motor vehicle which has been previously registered in any state or country;

(12) "Retail price" of motor vehicles shall be determined as follows:

(a) For new, dealer demonstrator, previous model year motor vehicles and U-Drive-It motor vehicles that have been transferred within one hundred eighty (180) days of being registered as a U-Drive-It and that have less than five thousand (5,000) miles, "retail price" shall be the total consideration given at the time of purchase or at a later date, including any trade-in allowance as attested to in a notarized affidavit. If a notarized affidavit signed by both the buyer and seller is not available to establish total consideration given, "retail price" shall be:

1. Ninety percent (90%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges; or

2. Eighty-one percent (81%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges in the case of new trucks of gross weight in excess of ten thousand (10,000) pounds; and

3. "Retail price" shall not include that portion of the price of the vehicle attributable to equipment or adaptive devices necessary to facilitate or accommodate an operator or passenger with physical disabilities;

(b) For historic motor vehicles, "retail price" shall be one hundred dollars ($100);

(c) For used motor vehicles being registered by a new resident for the first time in Kentucky whose values appear in the automotive reference manual prescribed by the *Department of* Revenue~~[Cabinet]~~, "retail price" shall be the average trade-in value given in the reference manual;

(d) For the older used motor vehicles being registered by a new resident for the first time in Kentucky whose values no longer appear in the automotive reference manual, "retail price" shall be one hundred dollars ($100);

(e) For used motor vehicles previously registered in another state or country that were purchased out-of-state by a Kentucky resident who is registering the vehicle in Kentucky for the first time, "retail price" shall be the total consideration given at the time of purchase or at a later date, including the average trade-in value given in the automotive reference manual prescribed by the *Department of* Revenue~~[Cabinet]~~ for any vehicle given in trade;

(f) For used motor vehicles previously registered in Kentucky that are sold in Kentucky, and U-Drive-It motor vehicles that are not transferred within one hundred eighty (180) days of being registered as a U-Drive-It or that have more than five thousand (5,000) miles, "retail price" means the total consideration given, excluding any amount allowed as a trade-in allowance by the seller. The trade-in allowance shall be disclosed in the notarized affidavit signed by the buyer and the seller attesting to the total consideration given. If a notarized affidavit signed by both the buyer and the seller is not available to establish the total consideration given for a motor vehicle, "retail price" shall be established by the *Department of* Revenue~~[Cabinet]~~ through the use of the automotive reference manual prescribed by the *Department of* Revenue~~[Cabinet]~~;

(g) Except as provided in KRS 138.470(6), if a motor vehicle is received by an individual as a gift and not purchased or leased by the individual, "retail price" shall be the average trade-in value given in the automotive reference manual prescribed by the *Department of* Revenue~~[Cabinet]~~;

(h) If a dealer transfers a motor vehicle which he has registered as a loaner or rental motor vehicle within one hundred eighty (180) days of the registration, and if less than five thousand (5,000) miles have been placed on the vehicle during the period of its registration as a loaner or rental motor vehicle, then the "retail price" of the vehicle shall be the same as the retail price determined by paragraph (a) of this subsection computed as of the date on which the vehicle is transferred; and

(13) "Loaner or rental motor vehicle" means a motor vehicle owned or registered by a dealer and which is regularly loaned or rented to customers of the service or repair component of the dealership.

Section 386. KRS 138.460 is amended to read as follows:

(1) A tax levied upon its retail price at the rate of six percent (6%) shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section.

(2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be registered:

(a) When he collects the registration fee for registering and licensing a motor vehicle the first time it is offered for registration in this state;

(b) Or upon the transfer of ownership of any motor vehicle previously registered in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the *Department of* Revenue~~[Cabinet]~~ on forms provided by the *department*~~[cabinet]~~ and on those forms as the *department*~~[cabinet]~~ may prescribe. The *department*~~[cabinet]~~ shall provide each county clerk affidavit forms which the clerk shall provide to the public free of charge to carry out the provisions of KRS 138.450. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.

(4) A county clerk or other officer shall not register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, or transfer the ownership of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration, and license fees.

(5) When a person offers a motor vehicle for registration for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, the person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. A credit shall not be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(6) A county clerk or other officer shall not register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, unless the seller or his agent delivers to the county clerk a notarized affidavit, if required, and available under KRS 138.450 attesting to the total and actual consideration paid or to be paid for the motor vehicle. If a notarized affidavit is not available, the clerk shall follow the procedures under KRS 138.450(12)(a) for new vehicles, and KRS 138.450(12)(c) or (d) for used cars. The clerk shall attach the notarized affidavit, if available, or other documentation attesting to the retail price of the vehicle as the *Department of* Revenue~~[Cabinet]~~ may prescribe by administrative regulation promulgated under KRS Chapter 13A to the copy of the certificate of registration and ownership mailed to the cabinet.

(7) Notwithstanding the provisions of KRS 138.450, the tax shall not be less than six dollars ($6) upon first registration of or any transfer of ownership of a motor vehicle in this state, except where the vehicle is exempt from tax under KRS 138.470.

(8) Where a motor vehicle is sold by a dealer in this state and the purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the *Department of* Revenue~~[Cabinet]~~ as a result of the registration of the returned vehicle. In the case of a new motor vehicle, the registration of the returned vehicle shall be canceled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer.

(9) When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the *Department of* Revenue~~[Cabinet]~~ as a result of the first registration. A person shall not be entitled to a refund unless he shall have filed with the *Department of* Revenue~~[Cabinet]~~ a report from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

(10) Notwithstanding the time limitations of subsections (8) and (9) of this section, when a dealer or manufacturer refunds the retail purchase price or replaces a motor vehicle for the purchaser as a result of formal arbitration or litigation, or, in the case of a manufacturer, because ordered to do so by a dispute resolution system established under KRS 367.865 or 16 C.F.R. 703, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the *Department of* Revenue~~[Cabinet]~~ as a result of the registration. A person shall not be entitled to a refund unless he shall have filed with the *Department of* Revenue~~[Cabinet]~~ a report from the dealer or manufacturer identifying the vehicle that was replaced.

Section 387. KRS 138.4605 is amended to read as follows:

(1) A motor vehicle dealer who operates a service or repair component in his dealership may register a motor vehicle to be used exclusively as a loaner or rental motor vehicle to the customers of this service or repair

department. The dealer may pay usage tax on the loaner or rental motor vehicle as provided in KRS 138.460, or, subject to the provisions of this section, may pay a usage tax of twenty-five dollars ($25) per month on the loaner or rental motor vehicle.

(2) A dealer shall pay the usage tax on a loaner or rental motor vehicle in the manner provided by KRS 138.460 unless the dealer shows to the satisfaction of the *Department of* Revenue~~[Cabinet]~~ that he is regularly engaged in the servicing or repair of motor vehicles and loans or rents the loaner or rental motor vehicle to a retail customer while the customer's motor vehicle is at the dealership for repair or service.

(3) For a dealer to be eligible to pay the usage tax on a loaner or rental motor vehicle under this section, the dealer shall identify the motor vehicle as a loaner or rental motor vehicle to the *Department of* Revenue~~[Cabinet]~~ and shall maintain records, as required by the *Department of* Revenue~~[Cabinet]~~, which show all uses of the loaner or rental motor vehicle.

(4) The tax due under subsection (1) of this section shall be remitted to the *Department of* Revenue~~[Cabinet]~~ monthly on forms prescribed by and in accordance with administrative regulations promulgated by the *department*~~[cabinet]~~.

(5) Failure of a motor vehicle dealer to remit the taxes applicable to a loaner or rental motor vehicle under this section shall be sufficient cause for the *Department of* Revenue~~[Cabinet]~~ to revoke the authority to use that motor vehicle as a loaner or rental motor vehicle and cause the usage tax on that motor vehicle to be due and payable in accordance with KRS 138.460 on the retail price of that motor vehicle when it was first registered as a loaner or rental motor vehicle.

(6) A motor vehicle no longer covered under the loaner permit program shall be taxed in the same manner as motor vehicles under KRS 138.450(12).

Section 388. KRS 138.464 is amended to read as follows:

The county clerk shall report each Monday to the *Department of* Revenue~~[Cabinet]~~ all moneys collected during the previous week, together with a duplicate of all receipts issued by him during the same period. The clerk shall deposit motor vehicle usage tax collections not later than the next business day following receipt in a Commonwealth of Kentucky, *Department of* Revenue~~[Cabinet]~~ account in a bank designated as a depository for state funds. The clerk may be required to then cause the funds to be transferred from the local depository bank to the State Treasury in whatever manner and at times prescribed by the *commissioner of the Department of Revenue*~~[secretary of the Revenue Cabinet]~~ or his designee. Failure to forward duplicates of all receipts issued during the reporting period or failure to file the weekly report of moneys collected shall subject the clerk to a penalty of two and one-half percent (2.5%) of the amount of moneys collected during the reporting period for each month or fraction thereof until the documents are filed. Failure to deposit or, if required, transfer collections as required above shall subject the clerk to a penalty of two and one-half percent (2.5%) of the amount not deposited or, if required, not transferred for each day until the collections are deposited or transferred as required above. The penalty for failure to deposit or transfer money collected shall not be less than fifty dollars ($50) nor more than five hundred dollars ($500) per day. The penalties provided in this section shall not apply if the failure of the clerk is due to reasonable cause. The *department*~~[cabinet]~~ may in its discretion grant a county clerk a reasonable extension of time to file his report or make any transfer of deposits as required above. The extension, however, must be requested prior to the end of the seven (7) day period and shall begin to run at the end of said period. All penalties collected under this provision shall be paid into the State Treasury as a part of the revenue collected under KRS 138.450 to 138.729.

Section 389. KRS 138.490 is amended to read as follows:

(1) Each person engaged in the business of conducting a race track shall furnish the *Department of* Revenue~~[Cabinet]~~, within thirty (30) days after the end of each race meeting, a report of the number of persons subject to the tax levied in KRS 138.480 who enter the grounds or inclosure during the race meeting. At the same time, the person shall pay to the state the correct amount due by reason of the collection of the tax from persons entering the grounds or inclosure of the race track.

(2) Any person who violates any provision of this section or KRS 138.480 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax interest rate as defined in KRS 131.010(6).

Section 390. KRS 138.502 is amended to read as follows:

(1) A person shall not sell or deliver untaxed diesel fuel or dyed diesel fuel when the person knows or has reason to know that the fuel will be used in a motor vehicle on any public highway.

(2) A person shall not introduce untaxed diesel fuel or dyed diesel fuel into the supply tank of any motor vehicle licensed for highway use.

(3) A person shall not use untaxed diesel fuel or dyed diesel fuel in any motor vehicle actually used on a public highway.

(4) The prohibitions contained in this section shall not apply to:

(a) Persons operating motor vehicles that have received fuel into the fuel tank outside this state in a jurisdiction that permits introduction of untaxed diesel fuel or dyed diesel fuel into the fuel supply tank of highway vehicles; and

(b) Uses of untaxed fuel or dyed diesel fuel on the highway which are lawful under the Internal Revenue Code and regulations, including state and local government vehicles, and buses, unless otherwise prohibited by this chapter.

(5) The *department*~~[cabinet]~~ may assess a civil penalty as follows:

(a) For first offenses, one thousand dollars ($1,000) or ten dollars ($10) per gallon of untaxed fuel or dyed diesel fuel involved, whichever is greater, against any person who violates this section. The capacity of the fuel tank shall be assumed to be the amount of fuel involved, unless a lesser amount can be adequately verified by the violator; and

(b) For subsequent offenses, the penalty shall be the amount determined in paragraph (a) of this subsection, multiplied by the number of separate violations by the violator.

Section 391. KRS 138.530 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~ shall enforce the provisions of and collect the tax and penalties imposed and other payments required by KRS 138.510 to 138.550, and in doing so it shall have the general powers and duties granted it in KRS Chapter 131 and KRS 135.050, including the power to enforce, by an action in the Franklin Circuit Court, the collection of the tax, penalties and other payments imposed or required by KRS 138.510 to 138.550.

(2) The remittance of the tax imposed by KRS 138.510 shall be made weekly to the *Department of* Revenue~~[Cabinet]~~ no later than the fifth business day, excluding Saturday and Sunday, following the close of each week of racing, during each race meeting and accompanied by reports as prescribed by the *department*~~[cabinet]~~. All funds received by the *Department of* Revenue~~[Cabinet]~~ shall be paid into the State Treasury and shall be credited to the general expenditure fund.

(3) The supervisor of pari-mutuel betting appointed by the Kentucky Horse Racing Authority shall weekly, during each race meeting, report to the *Department of* Revenue~~[Cabinet]~~ the total amount bet or handled the preceding week and the amount of tax due the state thereon, under the provisions of KRS 138.510 to 138.550.

(4) The supervisor of pari-mutuel betting appointed by the Kentucky Horse Racing Authority or his duly authorized representatives shall, at all reasonable times, have access to all books, records, issuing or vending machines, adding machines, and all other pari-mutuel equipment for the purpose of examining and checking the same and ascertaining whether or not the proper amount or amounts due the state are being or have been paid.

(5) Every person, corporation, or association required to pay the tax imposed by KRS 138.510 shall keep its books and records so as to clearly show by a separate record the total amount of money contributed to every pari-mutuel pool, including daily double pools, if any.

Section 392. KRS 138.550 is amended to read as follows:

In addition to all other penalties provided in KRS 138.510 to 138.540, when the pari-mutuel system of betting is operated at a track licensed under the provisions of KRS 137.170, said license may be suspended, revoked or renewal refused by the Kentucky Horse Racing Authority upon the failure of the operator to comply with the provisions of KRS 138.510 to 138.540 or the rules and regulations promulgated by the *Department of* Revenue~~[Cabinet]~~ pursuant thereto even though the pari-mutuel system of betting and the track are operated by different persons, corporations or associations.

Section 393. KRS 138.727 is amended to read as follows:

(1) Nothing in KRS 186.655 to 186.725 shall deny the right of the *Department of* Revenue~~[Cabinet]~~ to make audits of a taxpayer's records and accounts, even though the same taxpayer may be or should be a motor carrier and subject to investigation by the Department of Vehicle Regulation.

(2) The Department of Vehicle Regulation shall, upon request of the *Department of* Revenue~~[Cabinet]~~, furnish the *Department of* Revenue~~[Cabinet]~~ any information which it may have in its records with regard to the administration of KRS 138.655 to 138.725.

(3) The Department of Vehicle Regulation shall not make any refunds to any person or company without inquiring of the *Department of* Revenue~~[Cabinet]~~ as to the person or company being indebted to the Commonwealth of Kentucky by reason of any tax liability, and no refunds shall be made if such person or company is indebted in any fashion to the Commonwealth of Kentucky.

Section 394. KRS 138.810 is amended to read as follows:

As used in KRS 138.820 to 138.860:

(1) "Contaminated waste materials" means those materials, in solid, liquid or gaseous form, which are transported or buried with radioactive wastes;

(2) *"Department"*~~["Cabinet"]~~ means the *Department of* Revenue~~[Cabinet]~~;

(3) "Person" includes every natural person, fiduciary, association, state or political subdivision, or corporation;

(4) "Processor" means any person receiving delivery or any person having an interest or right of occupancy or use in real property or improvements or any person owning, operating or maintaining a radioactive waste disposal site or facility of contaminated waste materials or radioactive waste materials for processing, packaging, storage, disposal, burial or other disposition;

(5) "Radioactive waste disposal site or facility" means any installation constructed, used or placed in operation primarily for disposing of contaminated waste materials or radioactive wastes;

(6) "Radioactive wastes" means any and all material which is radioactive or is contaminated by or with radioactive material including but not limited to any structures used in containing such radioactive wastes; and

(7) "Radioactive material" means any material, solid, liquid or gas, which emits radiation spontaneously.

Section 395. KRS 138.820 is amended to read as follows:

(1) An excise tax of ten cents ($0.10) per pound is hereby levied and shall be paid by the processor to the *department*~~[cabinet]~~ upon all contaminated waste materials and all radioactive waste material delivered in the Commonwealth of Kentucky for processing, packaging, storage, disposal, burial or other disposition.

(2) Any person receiving contaminated waste materials or radioactive waste material or both or any person having an interest or right of occupancy or use in real property or improvements and any person owning, operating or maintaining a solid waste disposal site or facility as defined in KRS 224.01-010 upon or in which the same shall be deposited for processing, packaging, storage, disposal, burial or other disposition shall collect from the person delivering such material the tax imposed by this section.

(3) Every processor shall file with the *department*~~[cabinet]~~, on forms prescribed by the *department*~~[cabinet]~~, a monthly tax return. The return shall be made under penalty of perjury and shall contain such information as the *department*~~[cabinet]~~ may require.

(4) The monthly tax return shall be accompanied by remittance of the tax then due.

Section 396. KRS 138.830 is amended to read as follows:

Every processor shall maintain complete records of all deliveries of contaminated waste materials and of radioactive waste materials. Such records, together with manifests of lading, invoices, correspondence and other papers pertaining thereto shall be retained for a minimum period of two (2) years, and, if requested by the *department*~~[cabinet]~~, shall be made available for examination by the *department*~~[cabinet]~~.

Section 397. KRS 138.840 is amended to read as follows:

The *department*~~[cabinet]~~ may audit the books and records of each processor and make such other investigations as it deems necessary to determine the payment of tax and other requirements imposed by KRS 138.820 to 138.860.

Section 398. KRS 138.850 is amended to read as follows:

The tax returns required by KRS 138.820(3) shall be accompanied by a certified or cashier's check, payable to the state treasurer, for the amount of tax due for the preceding calendar month except that the *department*~~[cabinet]~~ may waive this requirement and accept the check of the processor if he is of sound financial condition and has established a record of compliance.

Section 399. KRS 138.860 is amended to read as follows:

The *department*~~[cabinet]~~ shall administer the taxes provided under KRS 138.820(1) and may prescribe, adopt and enforce regulations relating to the administration and enforcement thereof.

Section 400. KRS 138.874 is amended to read as follows:

(1) Except as provided in KRS 138.870 to 138.889, no offender shall engage in this state in a taxable activity unless the tax imposed pursuant to KRS 138.872 has been paid as evidenced by the affixing of a tax stamp, label, or other tax indicia to the marijuana or controlled substance as prescribed by the *Department of* Revenue~~[Cabinet]~~. The tax shall be due and payable immediately upon the occurrence of the taxable activity in this state. If an offender engages in a taxable activity in this state involving marijuana or a controlled substance on which a tax stamp, label, or other tax indicia evidencing payment of the tax imposed pursuant to KRS 138.872 has not already been affixed, the offender shall immediately permanently affix the required tax stamp, label, or other tax indicia.

(2) Tax stamps, labels, or other tax indicia required to be affixed to marijuana or controlled substances shall be purchased from the *Department of* Revenue~~[Cabinet]~~. The purchaser shall pay one hundred percent (100%) of the face value for each tax stamp, label, or other tax indicia at the time of the purchase. The *Department of* Revenue~~[Cabinet]~~ shall maintain an inventory of tax stamps, labels, or other tax indicia in denominations it deems necessary to facilitate compliance by taxpayers with the provisions of this section. No purchaser of tax stamps, labels, or other tax indicia pursuant to this section shall be required to give his name, address, or otherwise identify himself to the *Department of* Revenue~~[Cabinet]~~.

(3) Each tax stamp, label, or other tax indicia shall be used only once and shall expire one (1) year after issuance by the *Department of* Revenue~~[Cabinet]~~ to the original purchaser thereof.

Section 401. KRS 138.876 is amended to read as follows:

The *Department of* Revenue~~[Cabinet]~~ shall administer the provisions of KRS 138.870 to 138.889 and may adopt regulations for the administration and enforcement of KRS 138.870 to 138.889. The *Department of* Revenue~~[Cabinet]~~ shall adopt a uniform system for providing, affixing, and displaying tax stamps, labels, or other tax indicia required pursuant to KRS 138.874. Payments required by KRS 138.872 shall be made to the *Department of* Revenue~~[Cabinet]~~ in the form the *Department of* Revenue~~[Cabinet]~~ requires to protect the revenues of the Commonwealth.

Section 402. KRS 138.880 is amended to read as follows:

(1) Each Commonwealth's attorney or county attorney in this state who obtains a conviction of, or a guilty or Alford plea from, an offender for violating KRS Chapter 218A shall, within seventy-two (72) hours after the conviction or the plea, notify the *Department of* Revenue~~[Cabinet]~~ in writing if the offender has not paid the tax imposed by KRS 138.872 as evidenced by the absence of the tax stamps, labels, or other official tax indicia required to be affixed to the marijuana or controlled substance that was the subject of the conviction or plea. The weight or dosage units prescribed in this subsection shall include the weight of the marijuana or the weight or dosage units of the controlled substance, whether pure, impure, or diluted. The notice required in this subsection shall be submitted in the manner prescribed by the *Department of* Revenue~~[Cabinet]~~ and shall include:

   (a) The name, address, and Social Security number of the offender from whom the conviction or plea was obtained;

   (b) The type and quantity of the items that were the subject of the conviction or plea;

   (c) Any information developed during the course of the investigation regarding any real or personal properties owned by the offender from whom the conviction or plea was obtained; and

   (d) Other information the *Department of* Revenue~~[Cabinet]~~ may require to facilitate the assessment and collection of the tax due pursuant to KRS 138.872.

(2) To facilitate collection of the tax due pursuant to KRS 138.872, the Commonwealth's attorney or county attorney shall, as an authorized agent of the *Department of* Revenue~~[Cabinet]~~, simultaneously file a copy of the notice required pursuant to subsection (1) of this section with:

(a) The county clerk of the county in which the conviction or the guilty or Alford plea was entered;

(b) The county clerk of the county in which the offender resides if different from the county in which the conviction or plea was entered;

(c) The county clerk of any other county in which the Commonwealth's attorney or county attorney reasonably believes the offender from whom the conviction or plea was obtained owns real or personal property; and

(d) Each financial institution or other custodian the Commonwealth's attorney or county attorney reasonably believes possesses any funds, safe deposit box, or other assets owned in whole or in part by the offender from whom the conviction or plea was obtained.

(3) The notice required by subsection (2) of this section shall be a lien in favor of the Commonwealth pursuant to KRS 134.420 to secure payment of the tax, penalty, and interest due. The tax shall be and remain a lien upon the property, and all property subsequently acquired, and may be enforced as other liens on similar property are enforced. The lien may be released only upon written notice from the *Department of* Revenue~~[Cabinet]~~ that:

(a) The tax, penalty and interest due pursuant to KRS 138.872 and 138.889 have been paid;

(b) A bond has been given to the *Department of* Revenue~~[Cabinet]~~ as provided in KRS 131.150; or

(c) The tax, penalty, and interest are determined by the *Department of* Revenue~~[Cabinet]~~ not to be due.

(4) The county clerk recording or releasing a state tax lien pursuant to this section shall be entitled to the fee prescribed therefor by KRS 64.012.

(5) Except as necessary to accept taxes that the offender voluntarily pays under KRS 138.874, the *Department of* Revenue~~[Cabinet]~~ shall not require a bond or otherwise attempt to collect the tax due under KRS 138.874 until the offender's taxable activity results in a conviction or a guilty or Alford plea for a violation of KRS Chapter 218A. However, the *Department of* Revenue~~[Cabinet]~~ may impose a notice of lien on issuance of a warrant or indictment, which shall be released upon acquittal or dismissal of the case.

Section 403. KRS 138.882 is amended to read as follows:

(1) The tax, penalty, and interest assessed by the *Department of* Revenue~~[Cabinet]~~ pursuant to KRS 138.872 and 138.889 shall be deemed prima facie valid and correctly determined and assessed. The burden shall be upon the taxpayer in any judicial or administrative proceeding in this state to show their incorrectness or invalidity.

(2) The collection provisions of KRS 131.500, and any other remedy provided by the laws of the Commonwealth for collection of a tax administered by the *Department of* Revenue~~[Cabinet]~~, shall apply with respect to the collection of the tax, penalty, and interest imposed by KRS 138.872 and 138.889, but it shall not be necessary for the *Department of* Revenue~~[Cabinet]~~ to await the expiration of the times specified in KRS 131.500 to levy upon and sell any property or rights to property found within the Commonwealth belonging to the offender failing to pay the tax, penalty, or interest due pursuant to KRS 138.872 and 138.889.

(3) No person shall bring an action in any court to restrain or delay the assessment or collection of any tax, penalty, or interest imposed by KRS 138.872 and 138.889.

(4) Notwithstanding any provision of KRS 138.870 to 138.889, or any other provision of law, collection of any tax, penalty, or interest under KRS 138.872 and 138.889 or imposition of any revenue liens arising as a result of KRS 138.880 shall not interfere with any forfeiture of money or any other type or kind of property under the drug forfeiture laws of this state, or with any distribution of property or funds under the drug forfeiture laws of this state. Regardless of the order in which proceedings are begun, forfeiture of money or any other type or kind of property and distribution of property and funds under the drug forfeiture laws of this state shall take precedence over any proceedings to collect the tax, penalty, or interest due pursuant to KRS 138.872 and 138.889.

Section 404. KRS 138.884 is amended to read as follows:

For the purpose of determining the correctness of any return; determining the amount of tax that should have been paid; determining whether or not the offender should have made a return or paid tax; or collecting any tax, penalty, or interest under KRS 138.872 and 138.889, the *Department of* Revenue~~[Cabinet]~~ may examine, or cause to be examined, any books, papers, records, or memoranda that may be relevant to making any determinations, whether the books, papers, records, or memoranda are the property of or in the possession of the offender or another person. The *Department of* Revenue~~[Cabinet]~~ may require the attendance of any person having knowledge or information that may be relevant; compel the production of books, papers, records, or memoranda by persons required to attend; take testimony on matters material to the determination; and administer oaths or affirmations. The *Department of* Revenue~~[Cabinet]~~ may issue subpoenas which may be served by authorized agents of the *Department of* Revenue~~[Cabinet]~~ to compel the attendance of witnesses or the production of documents, books, papers, records, bank records, and any other writing or memoranda.

Section 405. KRS 138.886 is amended to read as follows:

(1) The provisions of KRS 138.870 to 138.889 shall not inculpate any person or otherwise cause any person to incriminate himself in violation of his constitutional rights and, notwithstanding the exceptions provided in KRS 131.190 or any other law, neither the *Department of* Revenue~~[Cabinet]~~ nor any public employee may reveal facts contained in any report required by KRS 138.870 to 138.889, nor shall any information contained in any report filed pursuant to KRS 138.870 to 138.889 be used against an offender in any criminal proceeding, except in connection with a proceeding involving the tax, penalty, or interest due under KRS 138.872 and 138.889, unless the information is independently obtained. Further, possession of any tax stamp, label, or other tax indicia evidencing payment of tax pursuant to KRS 138.874 shall not be used against any person in any criminal proceeding.

(2) Any person violating this section shall be guilty of a Class B misdemeanor.

(3) This section shall not prohibit the *Department of* Revenue~~[Cabinet]~~ from publishing statistics that do not disclose the identity of offenders or the contents of particular returns or reports.

Section 406. KRS 138.990 is amended to read as follows:

(1) Any person who violates any provision of KRS 138.140, 138.146, or 138.195 for which a specific penalty is not provided shall be guilty of a violation for the first offense; for each such subsequent offense, he shall be guilty of a Class A misdemeanor. These penalties shall be in addition to the civil penalties provided by KRS 138.165, 138.185, and 138.205.

(2) Any person who fails to supply the information required by subsection (8) of KRS 138.195 shall be guilty of a violation; for each subsequent offense, he shall be guilty of a Class B misdemeanor. These penalties shall be in addition to any civil penalty provided by KRS 138.165, 138.185, and 138.205.

(3) Any person violating subsection (10) of KRS 138.195 or any regulations adopted thereunder shall be guilty of a Class A misdemeanor. This penalty shall be in addition to any civil penalty provided by KRS 138.165, 138.185, and 138.205.

(4) Any person who makes a false entry upon any invoices or any record relating to the purchase, possession, transportation, or sale of cigarettes, and presents any such false entry to the *department*~~[cabinet]~~ or any of its agents with the intent to avoid any tax imposed by KRS 138.130 to 138.205, shall be guilty of a Class D felony.

(5) Any person who shall counterfeit any cigarette tax evidence shall be guilty of a Class D felony.

(6) Any person who sells, offers to sell, or uses counterfeit cigarette tax evidence, affixed or unaffixed, with the intention of evading any tax imposed by KRS 138.130 to 138.205 shall be guilty of a Class D felony.

(7) Any person who fails to remit gasoline or special fuel tax money to the state as provided in KRS 138.280 is guilty of embezzlement of state funds. Embezzlement of state funds, for the first offense, shall be a Class A misdemeanor, and for the second offense, shall be a Class D felony.

(8) Any person who violates any of the provisions of KRS 138.300 shall be guilty of a Class A misdemeanor. This penalty shall be in addition to the penalty provided in subsection (7) of this section.

(9) Any person who violates KRS 138.310 shall be guilty of a Class A misdemeanor. Each day or part of a day of doing business as a dealer without an uncanceled license shall be a separate offense.

(10) (a) Any person who willfully and fraudulently gives a false statement as to the total and actual consideration paid for a motor vehicle under KRS 138.450 shall be guilty of a Class D felony and shall be fined not less than two thousand dollars ($2,000) per offense.

(b) Any person who violates any of the other provisions of KRS 138.460 to 138.470 shall be fined not less than twenty-five dollars ($25) nor more than one thousand dollars ($1,000) and if the offender is an individual, he shall be guilty of a Class A misdemeanor.

(11) Any person who violates any of the provisions of KRS 138.480 or 138.490 shall be guilty of a Class B misdemeanor.

(12) If any offender under the provisions of subsections (1) to (9), (11) or (16) of this section is a corporation, the principal officer or the officer directly responsible for the violation, or both, may be imprisoned as provided in those subsections.

(13) Any person who violates any provision of subsection (1) of KRS 138.354, whether or not his permit has been revoked, shall be guilty of a Class A misdemeanor.

(14) Any person violating any provision of KRS 138.655 to 138.725 is guilty of a Class A misdemeanor.

(15) In addition to the penalties provided in KRS 138.990(14), the motor vehicle or vehicles of any person violating any provision of KRS 138.720 shall be subject to seizure by any officer duly authorized to enforce the provisions of KRS 138.655 to 138.725.

(16) Any person violating KRS 138.175 shall be guilty of a Class D felony.

(17) Any person who intentionally evades payment of the tax imposed by KRS 138.460 or 138.463 shall be liable for the taxes evaded, with applicable interest and penalties, and in addition shall be guilty of:

(a) A Class B misdemeanor if the amount of tax evaded is two hundred fifty dollars ($250) or less; and

(b) A Class A misdemeanor if the amount of tax evaded is greater than two hundred fifty dollars ($250).

Section 407. KRS 139.025 is amended to read as follows:

The *Department of* Revenue~~[Cabinet]~~ may promulgate administrative regulations providing for the reporting of gross receipts and payment of taxes levied by this chapter on a basis other than accrual.

Section 408. KRS 139.110 is amended to read as follows:

(1) "Retailer" means:

(a) Every person engaged in the business of making retail sales or furnishing any services included in KRS 139.200;

(b) Every person engaged 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 meeting.

(2) When the *department*~~[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 dealers, distributors, supervisors or employers, the *department*~~[cabinet]~~ may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.

Section 409. KRS 139.180 is amended to read as follows:

"Taxpayer" means any person liable for tax under this chapter; *"department"*~~["cabinet"]~~ means the *Department of* Revenue~~[Cabinet]~~.

Section 410. KRS 139.210 is amended to read as follows:

(1) Except as provided in subsection (2) 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 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) The *department*~~[cabinet]~~ may relieve certain retailers from the provisions of subsection (1) 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 *department*~~[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) 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) The taxes to be collected under this section shall constitute a debt of the retailer to the Commonwealth.

Section 411. 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 *department*~~[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 *department*~~[cabinet]~~;

(b) Set forth the name under which the applicant transacts or intends to transact business and the location of the place or places of business; and

(c) Set forth other information as the *department*~~[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 412. KRS 139.250 is amended to read as follows:

After compliance with KRS 139.240 and 139.660 by the applicant, the *department*~~[cabinet]~~ shall grant and issue to each applicant a separate permit for each place of business within the state. A permit shall not be assignable, and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.

Section 413. 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 KRS 139.200 and 139.310, 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 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;

(2) Purchased through a properly executed certificate of exemption in accordance with KRS 139.270;

(3) Purchased according to regulations of the *Department of* Revenue~~[Cabinet]~~ governing a direct pay authorization; or

(4) Purchased under a form issued pursuant to KRS 139.776 or 139.777.

Section 414. 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, at the time of purchasing the tangible personal property:

(a) Indicates an 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:

(a) Accepts a properly completed resale certificate or certificate of exemption; and

(b) Maintains a file of the certificate in accordance with KRS 139.720.

(3) If the *department*~~[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 *department*~~[cabinet]~~ shall hold the purchaser liable for the remittance of the tax and may apply penalties provided in KRS 139.990.

Section 415. 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 form as the *department*~~[cabinet]~~ may prescribe.

(3) A signature shall not be required if the purchaser provides the retailer with an electronic resale certificate.

Section 416. KRS 139.320 is amended to read as follows:

(1) The use tax of six percent (6%) is hereby levied upon the storage, use, or other consumption in this state of any machines, machinery, tools, or other equipment brought, imported or caused to be brought into this state for use in constructing, building, or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or water system, drainage, or dredging system, electric or steam railway system, reservoir or dam, hydraulic or power plant, transmission line, tower, dock, wharf, excavation, grading, or other improvement or structures, or any part thereof. The owner or, if the property is leased the lessee of any such machine, machinery, tools, or other equipment shall be liable for the tax provided for in this chapter, to be computed as set out below. The useful life of such machines, tools, or other equipment shall be determined by the *department*~~[cabinet]~~ in accordance with the depreciable value permitted under KRS Chapter 141 and regulations issued pursuant thereto. Said use tax shall be computed on the basis of such proportion of the original purchase price of such property as the duration of time of use in this state bears to the total useful life. Such tax shall become due immediately upon such property's being brought into this state, and in the absence of satisfactory evidence as to the period of use intended in this state, it shall be presumed that such property will remain in this state for the remainder of its useful life.

(2) The provisions of this section shall not be applicable with respect to sales of such property within this state or to the use, storage, or consumption of such property when purchased for use in this state, and in such cases the full sales or use tax shall be paid as in all other cases, irrespective of the period of intended use in this state.

(3) For the purposes of this section, the total useful life of property which is fully depreciated at the time of being brought into this state or becomes fully depreciated while in use in this state shall be extended to include the time of use in this state. In the absence of satisfactory evidence as to the period of use in this state, the tax shall be computed on an annual basis and shall be paid as provided by KRS 139.540.

Section 417. KRS 139.330 is amended to read as follows:

Every person storing, using or otherwise consuming in this state tangible personal property purchased from a retailer is liable for the use tax levied under KRS 139.310. His liability is not extinguished until the tax has been paid to this state, except that a receipt from a retailer engaged in business in this state or from a retailer who is authorized by the *department*~~[cabinet]~~, under such rules and regulations as it may prescribe, to collect the tax and who is, for the purpose of this chapter relating to the use tax, regarded as a retailer engaged in business in this state, given to the purchaser pursuant to KRS 139.340 is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

Section 418. 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 collect the tax imposed by KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the *department*~~[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 419. KRS 139.390 is amended to read as follows:

Every retailer selling tangible personal property for storage, use or other consumption in this state shall register with the *department*~~[cabinet]~~ and give:

(1) The name and address of all agents operating in this state;

(2) The location of all distribution or sales houses or offices or other places of business in this state;

(3) Such other information as the *department*~~[cabinet]~~ may require.

Section 420. 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 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 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 *Department of* Revenue~~[Cabinet]~~;

(b) In making the determinations of eligibility, the *department*~~[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 and the retailer 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. 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 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 or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is retailer's shipping point or purchaser'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 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 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 or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or the purchaser'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 specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.

(b) The retailer 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;

(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 or retailer, or is an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or purchaser's destination;

(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;

(18) 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;

(19) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS Chapter 138;

(20) 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;

(21) 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;

(22) 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

(23) 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 421. KRS 139.505 is amended to read as follows:

(1) For the purpose of this section, "gross receipts" means:

(a) Sales of tangible personal property in this state if:

1. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale; or

2. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government; and

(b) Sales other than sales of tangible personal property in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and

a greater proportion of the income-producing activity is performed in this state than in any other state, based on cost of performance, or gross receipt allocation method as provided by statute and elected by the taxpayer.

(2) Any business whose communications service, subject to the sales tax imposed under KRS Chapter 139 and deducted for federal income tax purposes, exceeds five percent (5%) of the business's Kentucky gross receipts during the preceding calendar year is entitled to a refundable credit. The refundable credit shall be equal to the sales tax paid on the difference by which the communications service purchased by the business exceeds five percent (5%) of the business's Kentucky gross receipts.

(3) Any business that qualifies for the refundable credit authorized by subsection (2) of this section shall make an annual application for the refund on or after June 1, 2002, and on or after every June 1 thereafter. The application shall be made to the *department*~~[cabinet]~~ on forms as the *department*~~[cabinet]~~ may prescribe and shall contain any information deemed necessary for the *department*~~[cabinet]~~ to determine the business's eligibility to receive a refund.

(4) Notwithstanding the provisions of KRS 134.580 to the contrary, the *department*~~[cabinet]~~, upon receipt of a properly documented refund application, shall cause a timely refund to be made directly to the business. Interest shall not be allowed or paid on any refund made under this section.

(5) Any refund application submitted under this section is subject to examination by the *department*~~[cabinet]~~. The examination shall occur within four (4) years from the date the refund application is received by the *department*~~[cabinet]~~. Any overpayment resulting from the examination shall be repaid to the State Treasury. In addition, the amount required to be repaid is subject to the interest provisions of KRS 131.183 and to the penalty provisions of KRS 131.180.

(6) If a business owns directly or indirectly fifty percent (50%) or more of another business, the credit computed under subsection (2) of this section shall be computed on a combined basis, excluding any intercompany Kentucky gross receipts.

Section 422. KRS 139.510 is amended to read as follows:

(1) The tax levied by KRS 139.310 shall not apply with respect to the storage, use, or other consumption of tangible personal property in this state upon which a tax substantially identical to the tax levied under KRS 139.200 (not including any special excise taxes such as are imposed on alcoholic beverages, cigarettes, and the like) equal to or greater than the amount of tax imposed by KRS 139.310 has been paid in another state. Proof of payment of such tax shall be according to rules and regulations of the *department*~~[cabinet]~~. If the amount of tax paid in another state is not equal to or greater than the amount of tax imposed by KRS 139.310, then the taxpayer shall pay to the *department*~~[cabinet]~~ an amount sufficient to make the tax paid in the other state and in this state equal to the amount imposed by KRS 139.310. No credit shall be given under this section for sales taxes paid in another state if that state does not grant credit for sales taxes paid in this state.

(2) To prevent actual multistate taxation of a communications service subject to taxation under this chapter, any provider or purchaser, upon proof that the provider or purchaser has paid a tax in another state on the same communications services, shall be allowed a credit against the tax imposed by this chapter to the extent of the amount of the tax legally paid in the other state.

Section 423. KRS 139.536 is amended to read as follows:

(1) 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 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. The approved company shall have no obligation to refund or otherwise return any amount of this sales tax refund to the persons from whom the sales tax was collected. The term of the agreement granting the sales tax refund shall be ten (10) years, and this time period shall commence on the later of:

(a) The final approval for purposes of the inducements; or

(b) The completion date specified in the agreement.

(2) Any sales tax collected by an approved company as defined in KRS 148.851 on sales transacted after final approval but prior to the commencement of the term of the agreement, including any approved company that has received final approval prior to July 15, 2000, shall be refundable as if collected after the commencement

of the term and applied to the approved company's first fiscal year's refund after activation of the term and without changing the term.

(3) The total sales tax refund allowed to the approved company over the term of the agreement in subsection (1) of this section shall be equal to the lesser of the total amount of the sales tax liability of the approved company and its lessees or twenty-five percent (25%) of the approved costs. The sales tax refund shall accrue over the term of the agreement in an annual amount equal to two and one-half percent (2.5%) of the approved cost. Notwithstanding the foregoing two and one-half percent (2.5%) limitation, any unused inducements as set forth in KRS 148.851(9) from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire twenty-five percent (25%) of the approved costs have been received through sales tax refunds. By October 1 of each year the *Department of* Revenue~~[Cabinet]~~ shall certify to the authority and the secretary of the Tourism Development Cabinet for the preceding fiscal year for all approved companies for which sales tax returns were filed with respect to a tourism attraction project, the sales tax liability of the approved companies receiving inducements under this section and KRS 148.851 to 148.860, and their lessees, and the amount of the sales tax refunds issued pursuant to subsection (1) of this section.

(4) Interest shall not be allowed or paid on any refund made under the provisions of this section.

(5) The *Department of* Revenue~~[Cabinet]~~ may promulgate administrative regulations and require the filing of forms designed by the *Department of* Revenue~~[Cabinet]~~ to reflect the intent of this section and KRS 148.851 to 148.860.

Section 424. KRS 139.5381 is amended to read as follows:

As used in KRS 139.5382 to 139.5386 and 139.990(5), unless the context requires otherwise:

(1) *"Department"*~~["Cabinet"]~~ means the Kentucky *Department of* Revenue~~[Cabinet]~~;

(2) "Motion picture production company" means a company engaged in the business of producing motion pictures intended for a theatrical release or for exhibition on national television either by a network or for national syndication, or television programs which will serve as a pilot for or a segment of a nationally televised dramatic series, either by a network or for national syndication;

(3) "Financial institution" means any bank or savings and loan institution in the Commonwealth which carries FDIC or FSLIC insurance; and

(4) "Secretary" means the secretary of the Kentucky Finance and Administration Cabinet.

Section 425. KRS 139.5382 is amended to read as follows:

(1) Any motion picture production company that intends to film all, or parts of, a motion picture in Kentucky and desires to receive the credit provided for in KRS 139.5382 to 139.5386 shall, prior to the commencement of filming:

(a) Provide the *Department of* Revenue~~[Cabinet]~~ with the address of a Kentucky location at which records of expenditures qualifying for the tax credit will be maintained, and with the name of the individual maintaining such records; and

(b) File an application for the tax credit provided for in KRS 139.5382 to 139.5386 within sixty (60) days after the completion of filming or production in Kentucky. The application shall include a final expenditure report providing documentation for expenditures in accordance with regulations promulgated by the *Department of* Revenue~~[Cabinet]~~.

(2) To qualify as a basis for the financial incentive, expenditures must be made by check drawn upon any Kentucky financial institution.

(3) The twelve (12) month period, during which expenditures may qualify for the tax credit provided by KRS 139.5382 to 139.5386, shall begin on the date of the earliest expenditure reported.

Section 426. KRS 139.5384 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~ shall, within sixty (60) days following the receipt of an application for a credit for sales and use tax paid, calculate the total expenditures of the motion picture production company for which there is documentation for funds expended in the Commonwealth, calculate the amount of credit to which the applicant is entitled, and certify the same to the secretary of the Finance and Administration Cabinet. In the case of an audit, as provided for in KRS 139.5386, the *Department of* Revenue~~[Cabinet]~~ shall certify

the amount of the credit due to the secretary within one hundred eighty (180) days following the receipt of the motion picture production company's application.

(2) Upon receipt of the certification of the amount thereof from the *Department of* Revenue~~[Cabinet]~~, the secretary shall cause the refund of sales taxes paid to be remitted to the motion picture production company. For purposes of payment and funding thereof, the credit provided in KRS 139.5382 to 139.5386 shall be paid in the same manner as other claims on the State Treasury are paid. They shall not be charged against any appropriation, but shall be deducted from tax receipts for the current fiscal year.

(3) The sales and use taxes paid by the motion picture production company for which a refundable tax credit is granted shall be deemed not to have been legally paid into the State Treasury, and the refund of the credit shall not be in violation of Section 59 of the Kentucky Constitution.

Section 427. KRS 139.5385 is amended to read as follows:

(1) Any tax credit, or part thereof, paid to a motion picture production company as a result of error by the *Department of* Revenue~~[Cabinet]~~ shall be repaid by such company to the secretary of the Finance and Administration Cabinet.

(2) Any tax credit, or part thereof, paid to a motion picture production company as a result of error or fraudulent statements made by the motion picture production company, shall be repaid by such company to the secretary of the Finance and Administration Cabinet, together with interest, at the tax interest rate provided for in KRS 131.010(6).

Section 428. KRS 139.5386 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~ may require that reported expenditures and the application for the tax credit from a motion picture production company be subjected to an audit by the *Department of* Revenue~~[Cabinet]~~ auditors to verify expenditures.

(2) For companies in the business of producing films or television shows other than those which would qualify them for the credit under the definition of "motion picture production company" in KRS 139.5381, the *department*~~[cabinet]~~ may require separate accounting records for the reporting of expenditures made in connection with the application for a refundable tax credit.

(3) The *Department of* Revenue~~[Cabinet]~~ shall promulgate appropriate administrative regulations to carry out the intent and purposes of KRS 139.5382 to 139.5386.

Section 429. KRS 139.540 is amended to read as follows:

The taxes imposed by this chapter are due and payable to the *department*~~[cabinet]~~ monthly and shall be remitted on or before the twentieth day of the next succeeding calendar month.

Section 430. 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 *department*~~[cabinet]~~ in a form the *department*~~[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 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 rules as the *department*~~[cabinet]~~ shall provide for the efficient collection of the sales tax on sales.

(5) The return shall show the amount of the taxes for the period covered by the return and other information the *department*~~[cabinet]~~ deems necessary for the proper administration of this chapter.

Section 431. KRS 139.580 is amended to read as follows:

The person required to file the return shall deliver the return together with a remittance of the amount of the tax due to the *department*~~[cabinet]~~.

Section 432. KRS 139.590 is amended to read as follows:

(1) For purposes of facilitating the administration, payment, or collection of the taxes levied by this chapter, the *department*~~[cabinet]~~ may, within its discretion, permit or require returns or tax payments for periods other than those prescribed by KRS 139.540 and 139.550.

(2) Notwithstanding the provisions of KRS 139.550, any retailer who desires to file his return on a quarterly basis shall make application in writing to the *department*~~[cabinet]~~ at least ninety (90) days prior to the due date of such quarterly return. When permitted, quarterly returns shall be filed in such manner as the *department*~~[cabinet]~~ may prescribe. No retailer may change from a quarterly reporting system to monthly reporting without authorization of the *department*~~[cabinet]~~.

(3) In no case shall a retailer be permitted to file quarterly unless monthly payments for the immediately preceding month are made on the basis of taxable gross receipts or total sales price of property used, consumed, or stored, as the case may be.

Section 433. KRS 139.600 is amended to read as follows:

For the purposes of the sales tax, gross receipts from rentals or leases of tangible personal property shall be reported and the tax paid in accordance with such rules and regulations as the *department*~~[cabinet]~~ may prescribe.

Section 434. KRS 139.610 is amended to read as follows:

(1) The *department*~~[cabinet]~~ shall upon written request received on or prior to the due date of the return or tax, for good cause satisfactory to the *department*~~[cabinet]~~, extend the time for filing the return or paying the tax for a period not exceeding thirty (30) days.

(2) Any person to whom an extension is granted and who pays the tax within the period for which the extension is granted shall pay, in addition to the tax, interest at the tax interest rate as defined in KRS 131.010(6) from the date on which the tax would otherwise have been due.

Section 435. KRS 139.620 is amended to read as follows:

(1) As soon as practicable after each return is received, the *department*~~[cabinet]~~ shall examine and audit it. If the amount of tax computed by the *department*~~[cabinet]~~ is greater than the amount returned by the taxpayer, the excess shall be assessed by the *department*~~[cabinet]~~ within four (4) years from the date the return was filed, except as provided in subsection (2), and except that in the case of a failure to file a return or of a fraudulent return the excess may be assessed at any time. A notice of such assessment shall be mailed to the taxpayer. The time herein provided may be extended by agreement between the taxpayer and the *department*~~[cabinet]~~.

(2) For the purposes of this section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

(3) When a business is discontinued, a determination may be made at any time thereafter within the periods specified in subsection (1) as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in this chapter.

Section 436. KRS 139.640 is amended to read as follows:

In making a determination of tax liability the *department*~~[cabinet]~~ may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.

Section 437. KRS 139.660 is amended to read as follows:

(1) Whenever it is deemed necessary to insure compliance with this chapter, the *department*~~[cabinet]~~ may require any person subject thereto to place with it such security as the *department*~~[cabinet]~~ may determine. The amount of the security shall be fixed by the *department*~~[cabinet]~~ but, except as provided in subsection (2), shall not be greater than twice the estimated average liability of persons filing returns for quarterly periods or three (3) times the estimated average liability of persons required to file returns for monthly periods, determined in such manner as the *department*~~[cabinet]~~ deems proper.

(2) In case of persons habitually delinquent in their obligations under this chapter, the amount of the security shall not be greater than three (3) times the average liability of persons filing returns for quarterly periods or five (5) times the average liability of persons required to file returns for monthly periods.

(3) The limitations herein provided apply regardless of the type of security placed with the *department*~~[cabinet]~~.

(4) The amount of the security may be increased or decreased by the *department*~~[cabinet]~~ subject to the limitations herein provided.

(5) (a) The *department*~~[cabinet]~~ may sell the security at public auction if it becomes necessary to do so in order to recover any tax, interest or penalty due. Security in the form of a bearer bond issued by the United States or any state or local governmental unit which has a prevailing market price may, however, be sold by the *department*~~[cabinet]~~ at a private sale at a price not lower than the prevailing market price thereof.

(b) The *department*~~[cabinet]~~ shall give notice of the date, time and place of the sale to the person who placed the security by certified mail addressed to him at his last known address as it appears in the records of the *department*~~[cabinet]~~, or delivery to such person.

(c) Delivery means handing it to such person or leaving it at his place of business with the person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the place of business is closed or the person to be served has no place of business, leaving it at his dwelling house with some person of suitable age and discretion residing therein. Said notice, if by certified mail, shall be postmarked no later than ten (10) days prior to said sale; if by delivery, said notice shall be given no later than ten (10) days prior to said sale.

(6) Upon any sale any surplus above the amounts due shall be returned to the person who placed the security.

Section 438. KRS 139.670 is amended to read as follows:

If any retailer liable for any amount under this chapter sells out his business or stock of goods, or otherwise quits business, his successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the *department*~~[cabinet]~~ showing that it has been paid or a certificate stating that no amount is due.

Section 439. KRS 139.680 is amended to read as follows:

(1) If the purchaser of a business or stock of goods fails to withhold the purchase price as required, he becomes personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price, valued in money. Within sixty (60) days after receiving a written request from the purchaser for a certificate, or within sixty (60) days from the date the former owner's records are made available for audit, whichever period expires the later, but in any event not later than ninety (90) days after receiving the request, the *department*~~[cabinet]~~ shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the *department*~~[cabinet]~~ of the amount that must be paid as a condition to issuing the certificate.

(2) Failure of the *department*~~[cabinet]~~ to mail the notice will release the purchaser from any further obligation to withhold the purchase price as above provided.

(3) The time within which the obligation of a successor may be enforced shall start to run at the time the retailer sells out his business or stock of goods or at the time that the determination against the retailer becomes final, whichever event occurs the later.

Section 440. KRS 139.700 is amended to read as follows:

The *department*~~[cabinet]~~ may, in its discretion, upon application authorize the collection of the tax imposed herein by any retailer not engaged in business within this state who, to the satisfaction of the *department*~~[cabinet]~~ furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued a permit to collect such tax in such manner, and subject to such regulation and agreements as the *department*~~[cabinet]~~ shall prescribe. When so authorized, it shall be the duty of such retailer to collect the tax upon all tangible personal property sold to his knowledge for use within this state, in the same manner and subject to the same requirements as a retailer engaged in business within this state.

Section 441. KRS 139.710 is amended to read as follows:

The *department*~~[cabinet]~~ shall administer the provisions of this chapter and shall have all of the powers, rights, duties, and authority with respect to the assessment, collection, refunding, and administration of the taxes levied by this

chapter, conferred generally upon the *department*~~[cabinet]~~ by the Kentucky Revised Statutes including Chapters 131, 134, and 135.

Section 442. KRS 139.720 is amended to read as follows:

(1) Every seller, every retailer, and every person storing, using and otherwise consuming in this state tangible personal property purchased from a retailer shall keep such records, receipts, invoices, and other pertinent papers in such form as the *department*~~[cabinet]~~ may require.

(2) Every such seller, retailer, or person who files the returns required under this chapter shall keep such records for not less than four (4) years from the making of such records unless the *department*~~[cabinet]~~ in writing sooner authorizes their destruction.

Section 443. KRS 139.730 is amended to read as follows:

In the administration of the sales and use tax, the *department*~~[cabinet]~~ may require the filing of reports by any person or class of persons having in his or their possession or custody information relating to sales of tangible personal property, the storage, use, or other consumption of which is subject to the tax. The report shall be filed at the time specified by the *department*~~[cabinet]~~ and shall contain such information as the *department*~~[cabinet]~~ may require.

Section 444. KRS 139.735 is amended to read as follows:

(1) The *Department of* 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 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 *Department of* 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 and 103 KAR 31.030.

Section 445. KRS 139.740 is amended to read as follows:

(1) No judgment shall be entered and no garnishment or attachment shall be permitted by any court in this Commonwealth in an action for the collection of a debt arising out of the sale of tangible personal property unless an affidavit containing a certificate of service is executed by the plaintiff to the effect that all use taxes due the Commonwealth have been paid.

(2) Prior to the filing of the affidavit, required under subsection (1) of this section, the plaintiff (including counterclaimants or crossclaimants) shall, by first-class mail, serve upon the *department*~~[cabinet]~~ a copy of the affidavit. Within fifteen (15) days from the date of the filing of the affidavit the *department*~~[cabinet]~~ may file a counteraffidavit. In such event no judgment shall be entered or garnishment or attachment issued until proof has been taken concerning the matters at issue in the affidavit and counteraffidavit.

(3) In the event the use tax levied by this chapter is found to be due and unpaid the plaintiff may elect to pay the tax to the *department*~~[cabinet]~~, and the amount of the tax paid by the plaintiff shall be recovered as a part of any judgment entered. If the plaintiff does not elect to pay the use tax found to be due and unpaid, judgment for the amount of the tax shall be awarded to the Commonwealth.

(4) Any judgment awarded to the Commonwealth under this section shall constitute a prior claim to any judgment obtained by the plaintiff.

(5) Tax as defined herein includes interest accrued thereon at the tax interest rate as defined in KRS 131.010(6).

(6) The provisions of this section shall not apply to a plaintiff holding a retail permit issued pursuant to this chapter.

Section 446. KRS 139.760 is amended to read as follows:

(1) Whenever any person fails to comply with any provisions of this chapter or any rule or regulation of the *department*~~[cabinet]~~ relating to the provisions of this chapter, the *department*~~[cabinet]~~ may revoke or suspend any one (1) or more of the permits held by the person.

(2) The *department*~~[cabinet]~~ shall not issue a new permit after the revocation of a permit unless it is satisfied that the former holder of the permit will comply with the provisions of this chapter and the regulations relating thereto.

(3) No suit shall be maintained in any court to restrain or delay the collection or payment of any tax levied by this chapter.

Section 447. 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 *department*~~[cabinet]~~ and shall contain such information as the *department*~~[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 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 448. KRS 139.785 is amended to read as follows:

(1) The *department*~~[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 *department*~~[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 *department*~~[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 *department*~~[cabinet]~~ may issue educational bulletins to the extent necessary to enhance the understanding of and compliance with terms of the agreement.

(3) The *commissioner of the Department of Revenue*~~[secretary of the cabinet]~~ or the *commissioner's*~~[secretary's]~~ designee, the state budget director or the director's designee, and two (2) legislators are 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 449. KRS 139.789 is amended to read as follows:

The *department*~~[cabinet]~~ shall not enter into the agreement unless the agreement requires each state to abide by the following requirements:

(1) The agreement shall set restrictions to achieve more uniform state rates through the following:

(a) Limiting the number of state rates;

(b) Limiting the application of maximums on the amount of state tax that is due on a transaction; and

(c) Limiting the application of thresholds on the application of state tax.

(2) The agreement shall establish uniform standards for the following:

(a) The sourcing of transactions to taxing jurisdictions;

(b) The administration of exempt sales;

(c) The allowances a seller can take for bad debts; and

(d) Sales and use tax returns and remittances.

(3) The agreement shall require states to develop and adopt uniform definitions of sales and use tax terms. The definitions shall enable a state to preserve its ability to make policy choices not inconsistent with the uniform definitions.

(4) The agreement shall provide a central, electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states.

(5) The agreement shall provide that registration with the central registration system and the collection of sales and use taxes in the signatory state will not be used as a factor in determining whether the seller has nexus with a state for any tax.

(6) The agreement shall provide for a reduction of the burdens of complying with local sales and use taxes through the following:

(a) Restricting variances between the state and local tax bases;

(b) Requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions;

(c) Restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes; and

(d) Providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions.

(7) The agreement shall outline any monetary allowances that are to be provided by the states to sellers or certified service providers.

(8) The agreement shall require each state to certify compliance with the terms of the agreement prior to joining and to maintain compliance under the laws of the member state, with all provisions of the agreement while a member.

(9) The agreement shall require each state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information.

(10) The agreement shall provide for the appointment of an advisory council of private sector representatives and an advisory council of non-member state representatives to consult with in the administration of the agreement.

Section 450. KRS 139.980 is amended to read as follows:

(1) Any person who violates any provision of this chapter shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest upon the unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made to the *department*~~[cabinet]~~.

Section 451. 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 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 KRS 139.270, 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;

(c) A direct pay authorization for property not in accordance with 103 KAR 31.030; or

(d) An MPU exemption form or Direct Mail Form issued not in accordance with the provisions KRS 139.776 or 139.777;

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, 139.380, or 139.700 shall be guilty of a Class B misdemeanor.

(4) Any person who violates any of the regulations promulgated by the *department*~~[cabinet]~~ 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 452. KRS 140.040 is amended to read as follows:

(1) Whenever any person shall exercise a power of appointment derived from any disposition of property (whether by will, deed, trust agreement, contract, insurance policy or other instrument) regardless of when made, such appointment shall be deemed a transfer taxable under the provisions of this chapter in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised by such donee by will; and whenever any person possessing such a power of appointment so derived shall omit or fail to exercise the same in whole or in part, within the time provided therefor, a transfer taxable under the provisions of this chapter shall be deemed to take place to the person or persons receiving such property as a result of such omission or failure to the same extent that such property would have been subject to taxation if it had passed under the will of the donee of such power. The time at which such transfer shall be deemed to take place, for the purpose of taxation, shall be governed by the provisions of subsections (2) to (4) of this section.

(2) In the case of a power of appointment which passes to the donee thereof at the death of the donor, under any instrument, and if the donor dies on or after April 24, 1936, the transfer shall be deemed to take place, for the purpose of taxation, at the time of the death of the donor and the assessment be made at that time against the life interest of the donee and the remainder against the corpus. The value of the property to which the power of appointment relates shall be determined as of the date of the death of the donor and shall be taxed at the rates and be subject to the exemptions in effect at the death of the donor. The determination of the applicable rates and exemptions (in effect at the death of the donor) shall be governed by the relationship of the beneficiary to the donee of the power of appointment. In the event the payment of the tax at the death of the donor should operate to provide an exemption for any beneficiary of a donee not authorized by KRS 140.080, then such exemption shall be retrospectively disallowed at the time of the death of the donee. It is further provided that the remainder interest passing under the donee's power of appointment, whether exercised or not, shall be added to and made a part of the distributable share of the donee's estate for the purpose of determining the exemption and rates applicable thereto.

(3) In all cases other than that described in subsection (2) the transfer shall be deemed to take place, for the purpose of taxation, at the time of the death of the donee. In such cases, the value of the property to which the power of appointment relates shall be determined as of the date of the death of the donee and shall be taxed at the rates and be subject to the exemptions in effect at the death of the donee. The determination of the applicable rates and exemptions (in effect at the death of the donee) shall be governed by the relationship of the beneficiary to the donee of the power of appointment.

(4) The provisions of subsection (2) shall not preclude the taxation, at the death of the donee, of any transfer made by means of a power of appointment if such transfer was not in fact reported to or a tax assessed thereon by the *Department of* Revenue~~[Cabinet]~~ within the period of limitation prescribed by KRS 140.160. If the transfer by the power of appointment is not so reported or a tax assessed thereon, the period of limitation prescribed in KRS 140.160 shall not begin to run until the death of the donee of such power.

(5) The amendments to this section, adopted by the 1948 General Assembly, shall apply to all powers of appointment whether created before or after the effective date of said amendments. It is the declared intention of the General Assembly to impose a tax upon every transfer of property by means of a power of appointment, regardless of when or how created, and it is the declared intention of the General Assembly that the use of the power of appointment device shall not permit the transfer of property, to which such a power relates, to escape thereby the payment of state inheritance taxes.

Section 453. KRS 140.080 is amended to read as follows:

(1) The following exemptions chargeable against the lowest bracket or brackets of inheritable interests shall be free from any tax under the preceding provisions of this chapter:

(a) Surviving spouse, total inheritable interest. Effective as to decedents dying after August 1, 1985, notwithstanding anything in this chapter to the contrary, if the decedent's personal representative (or trustee or transferee, absent a personal representative) shall so elect, the spouse's inheritable interest shall include the entire value of any trust or life estate which is in a form that qualifies for the federal estate tax marital deductions under section 2056(b)(5) or 2056(b)(7) of the Internal Revenue Code of 1954, as amended through December 31, 1984, regardless of whether or not the federal estate tax marital deduction is elected by the decedent's personal representative. To be valid, the election referred to in the sentence immediately preceding must be made in the form prescribed by the *Department of* Revenue~~[Cabinet]~~ and must be filed on or before the due date of the tax return (plus extensions) or with the first tax return filed, whichever last occurs;

(b) Class A beneficiaries as defined in KRS 140.070, other than the surviving spouse, of estates of decedents dying prior to July 1, 1995, as follows:

1. Infant child by blood or adoption, $20,000;

2. Child by blood who has been declared mentally disabled by a court of competent jurisdiction, $20,000;

3. Child adopted during infancy who has been declared mentally disabled by a court of competent jurisdiction, $20,000; or a

4. Child adopted during adulthood who was reared by the decedent during infancy and who has been declared mentally disabled by a court of competent jurisdiction, $20,000;

5. Parent, $5,000;

6. Child by blood, $5,000;

7. Stepchild, $5,000;

8. Child adopted during infancy, $5,000;

9. Child adopted during adulthood who was reared by the decedent during infancy, $5,000; or a

10. Grandchild who is the issue of a child by blood, the issue of a stepchild, the issue of a child adopted during infancy or the issue of a child adopted during adulthood who was reared by the decedent during infancy, $5,000;

(c) Class A beneficiaries as defined in KRS 140.070, other than the surviving spouse, of estates of decedents dying on or after July 1, 1995, shall be as follows:

1. For decedents dying between July 1, 1995, and June 30, 1996, the greater of the exemption established pursuant to paragraph (1)(b) of this section or one-fourth (1/4) of each beneficiary's inheritable interest;

2. For decedents dying between July 1, 1996, and June 30, 1997, the greater of the exemption established pursuant to paragraph (1)(b) of this section or one-half (1/2) of each beneficiary's inheritable interest;

3. For decedents dying between July 1, 1997, and June 30, 1998, the greater of the exemption established pursuant to paragraph (1)(b) of this section or three-fourths (3/4) of each beneficiary's inheritable interest; and

4. For each decedent dying after June 30, 1998, each beneficiary's total inheritable interest;

(d) All persons of Class B, under KRS 140.070, $1,000; and

(e) All persons of Class C, under KRS 140.070, $500.

(2) If the decedent was not a resident of this state, the exemption shall be the same proportion of the allowable exemption in the case of residents that the property taxable by this state bears to the whole property transferred by the decedent.

Section 454. KRS 140.090 is amended to read as follows:

(1) In calculating the value of the distributive shares the following deductions and no others shall be allowed:

(a) Debts of the decedent, except debts secured by property not subject to the tax jurisdiction of Kentucky; and except debts barred by the statute of limitations;

(b) Taxes accrued and unpaid, except those on property not subject to the tax jurisdiction of Kentucky;

(c) Death duties paid to foreign countries;

(d) Federal estate taxes, in the proportion which the net estate in Kentucky subject to federal estate taxes bears to the total net estate everywhere subject to federal estate taxes; all calculations are subject to approval by the *Department of* Revenue~~[Cabinet]~~;

(e) Drainage, street, or other special assessments due and unpaid which are a lien on said property;

(f) Funeral, monument, and cemetery lot maintenance expenses actually paid not exceeding in total five thousand dollars ($5,000);

(g) Commission of executors and administrators in the amount actually allowed and paid;

(h) Cost of administration, including attorney's fees actually allowed and paid.

(2) Notwithstanding the provisions of KRS 404.040, the debts of a deceased wife, subject to the exception in subsection (1)(a), shall be allowed in calculating the distributive shares of her estate for purposes of this chapter, provided such debts are paid from the proceeds of her estate.

Section 455. KRS 140.100 is amended to read as follows:

(1) The Department of Insurance, on the application of the *Department of* Revenue~~[Cabinet]~~, shall determine, and certify in duplicate to the *department*~~[cabinet]~~, the value of any future or contingent estate, income or interest therein, limited, contingent, dependent or determinable upon the lives of persons in being, upon the facts contained in the application or other facts submitted by the *department*~~[cabinet]~~. No fee shall be charged by the division for this service. The certificate shall be competent evidence that the method of computation therein is correct.

(2) The value of every future, contingent or limited estate, income or interest for the purpose of this chapter shall be determined by the rules, methods and standards of mortality and of value prescribed by the appropriate United States life mortality tables for ascertaining the value of life estates, annuities and remainder interests except that the rate of interest assessed in computing the present value of all future interests and contingencies shall be four percent (4%) per annum.

(3) When an annuity or a life estate is terminated by the death of the annuitant or life tenant, and the tax upon such interest has not been fixed and determined, the value of the interest for the purpose of taxation shall be that amount of the annuity or income actually paid or payable to the annuitant or life tenant during the period for which the annuitant or life tenant was entitled to the annuity or was in possession of the life estate. The tax on such annuities and life interests shall be payable out of the corpus of the estate, unless otherwise provided under the terms of the will.

(4) Notwithstanding anything in this chapter to the contrary, the value of a surviving spouse's interest in a trust or life estate which was exempt from Kentucky inheritance tax in the first spouse's estate pursuant to an election made under KRS 140.080(1)(a) shall be deemed to be equal to the entire value of the property held in the trust or life estate, at the surviving spouse's death, for Kentucky inheritance tax purposes in the surviving spouse's estate.

Section 456. KRS 140.110 is amended to read as follows:

(1) In the case of estates in expectancy which are contingent or defeasible, a tax shall be levied at the rate which, on the happening of the most probable contingencies or conditions named in the will, deed, trust agreement, contract, insurance policy, or other instrument, would be applicable under the provisions of this chapter. Moneys so collected shall be distributed as are other inheritance tax funds. If the property so taxed shall ultimately vest in possession in persons taxable at a lower rate, or in a person or a corporation exempt from taxation by this chapter, upon application by such beneficiary to the *Department of* Revenue~~[Cabinet]~~ for refund of any excess tax, the *Department of* Revenue~~[Cabinet]~~, after investigation, shall certify to the Finance and Administration Cabinet the amount of such refund. The Finance and Administration Cabinet shall refund such excess payment of tax in the same manner as other refunds are made.

(2) Where an estate or interest can be divested by the act or omission of the legatee or devisee, it shall be taxed as if there were no possibility of divesting.

Section 457. KRS 140.160 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~ shall have full supervision of the collection of all taxes due under the provisions of this chapter, including the power to institute suit in this and other states. It may employ attorneys and other persons necessary to carry out the full intent and purpose of this chapter. The *department*~~[cabinet]~~ shall furnish, upon application, blank forms covering information as may be necessary to determine the amount of tax due the state on the transfer of all property subject to tax.

(2) The *department*~~[cabinet]~~ may cause personal representatives or beneficiaries to file all statements required by this chapter with the clerks of the proper courts and with the *department*~~[cabinet]~~, and may require them to furnish any additional information deemed necessary to support the computation of the amount of tax that should be paid by the estate. The personal representative, or the beneficiaries in the absence of a personal representative, shall compute the taxes imposed by this chapter on the tax return provided by the *department*~~[cabinet]~~ when:

(a) 1. A United States estate tax return is required to be filed under federal law and applicable regulations; and

2. The estate includes property over which Kentucky has jurisdiction for purposes of the taxes imposed by this chapter; or

(b) Any assets from the estate subject to the taxes imposed by this chapter pass to a beneficiary taxable under KRS 140.070.

The tax return, when required, shall be filed with the *department*~~[cabinet]~~ within eighteen (18) months after the death of the decedent or at the time payment of the tax is made pursuant to KRS 140.210.

(3) Except as herein provided, no action to enforce the collection of the tax imposed by this chapter shall be commenced more than ten (10) years after the cause of action first accrued. In case the settlement of an estate is delayed because of litigation or other unavoidable cause, the delay shall suspend the limitation, prescribed by this subsection, until the cause of delay is removed. In the case of a fraudulent return or any other fraudulent representation affecting the amount of or the liability for the tax imposed by this chapter notwithstanding any provision of limitation provided elsewhere, the tax due by reason thereof may at any time be assessed and collected by the methods set out in this chapter, including action in a court of competent jurisdiction.

Section 458. KRS 140.165 is amended to read as follows:

The *department*~~[cabinet]~~ may make such audits, appraisals, and examinations of records according to KRS 131.130 to properly supervise the collection of all taxes due under the provisions of this chapter. A completed tax return with full payment attached shall be final one (1) year after receipt by the *department*~~[cabinet]~~ unless an audit has been initiated with due notice to the personal representative, except:

(1) If any assets of the estate were not reported on the tax return filed with the *department*~~[cabinet]~~, or

(2) If any information was not revealed to the *department*~~[cabinet]~~ which would affect the amount of tax due.

Section 459. KRS 140.170 is amended to read as follows:

(1) The District Court, upon the request of the personal representative or any interested party, shall appoint some competent person as appraiser of the estate. The appraiser shall give notice to all persons having an interest in the estate and to such other persons as the court may by order direct, and shall then appraise the property belonging to the estate. His report shall be filed with the court and a copy thereof with the *Department of* Revenue~~[Cabinet]~~. He shall be paid for his services out of the funds of the estate, on the certification of the court, the amount to be fixed by that court. The total compensation of the appraiser shall not exceed one-tenth of one percent (0.1%) of the total appraised value of the estate for inheritance tax purposes, but there shall be a minimum allowance of five dollars ($5), together with the appraiser's actual and necessary traveling expenses.

(2) After investigation, the *department*~~[cabinet]~~ may change the value of the estate for inheritance taxes and advise the representatives of the estate of this changed valuation after the receipt of a completed tax return and full payment as shown by the tax return.

(3) No appraiser shall accept any fee or reward from a personal representative, trustee, legatee, next of kin or heir of the decedent, or from any other person liable to pay the tax or any portion thereof.

(4) No person shall willfully and knowingly subscribe to or make any false statement of fact, or knowingly subscribe to or exhibit any false paper or false report with intent to deceive any appraiser.

(5) The *department*~~[cabinet]~~ shall keep a record of all returns, reports, and schedules attached thereto required by this chapter for twelve (12) years.

Section 460. KRS 140.180 is amended to read as follows:

If real property of a decedent is passed to another person so as to become subject to the tax, his personal representative or trustee shall inform the *department*~~[cabinet]~~ thereof within six (6) months after his appointment, or if the fact is not known to him within that time, then within one (1) month after the fact becomes known to him.

Section 461. KRS 140.210 is amended to read as follows:

(1) All taxes imposed by this chapter, unless otherwise provided in this chapter, shall be due at the death of the decedent and shall be payable to the *Department of* Revenue~~[Cabinet]~~ within eighteen (18) months thereafter. If they are paid within nine (9) months, a discount of five percent (5%) shall be allowed, and if they are paid within eighteen (18) months, no interest shall be charged and collected thereon. If the taxes due are not paid within eighteen (18) months, interest at the tax interest rate as defined in KRS 131.010(6) shall be paid from the expiration of the eighteen (18) months until payment is actually made to the *department*~~[cabinet]~~.

(2) In all cases where the personal representatives or trustees do not pay the taxes within eighteen (18) months from the death of the decedent, they shall be required to give bond, in the form and to the effect prescribed by the *department*~~[cabinet]~~, for the payment of the taxes and interest.

Section 462. KRS 140.222 is amended to read as follows:

(1) When the net tax due from a beneficiary's distributive share exceeds five thousand dollars ($5,000), the beneficiary may elect to pay the inheritance tax in ten (10) equal installments. The first installment shall be due at the time the return is filed with succeeding payments due in annual installments beginning one (1) year after the return is filed.

(2) The portion of the tax deferred under this section shall be charged with interest at the tax interest rate as defined in KRS 131.010(6) commencing eighteen (18) months after the date of death.

(3) When the beneficiary elects to pay the tax on his share as provided in this section, such election must be made in writing and signed by the beneficiary and must be filed with the *Department of* Revenue~~[Cabinet]~~ at the time of filing the tax return for the decedent's estate under KRS 140.160(2). The filing of the election together with payment of the first installment shall relieve the personal representative or trustee of the estate from further liability for the tax payments deferred under this section and the bond requirements of KRS 140.210, subject to the final approval by the *Department of* Revenue~~[Cabinet]~~ of all other taxes due under this chapter.

(4) A beneficiary electing to defer the payment of taxes under this section shall be personally liable for the amount of deferred taxes until paid.

(5) The period of limitations for actions to enforce the collection of taxes imposed by this chapter as provided by KRS 140.160(3) shall be suspended for the period of time for deferred payment granted by this section.

Section 463. KRS 140.224 is amended to read as follows:

(1) Where a beneficiary elects to pay the inheritance tax on the installment basis as provided in this chapter, such beneficiary may be required to post sufficient security at any time the *department*~~[cabinet]~~ reasonably believes collection of the tax may be in jeopardy.

(2) Failure of a beneficiary to pay any installment due or to post the required security shall cause all installments to become immediately due and payable.

Section 464. KRS 140.270 is amended to read as follows:

(1) In the absence of administration in this state upon the estate of a nonresident, the *Department of* Revenue~~[Cabinet]~~, at the request of a personal representative duly appointed and qualified in the state of the decedent's domicile, or of a grantee under a conveyance made during the grantor's lifetime, and upon satisfactory evidence furnished by the personal representative or grantee, or otherwise, may determine whether or not any property of the decedent within this state is subject to the provisions of this chapter. If so, the *department*~~[cabinet]~~ may determine the amount of tax and adjust the same with the personal representative or grantee, and for that purpose may appoint an appraiser to appraise the property. The expense of appraisal shall be charged upon the

property in addition to the tax. The *department's*~~[cabinet's]~~ certificate of the amount of tax and its receipt for the amount therein certified may be filed with the county judge/executive of the county where the property is located, and when so filed shall be evidence of the payment of the tax to the extent of such certification. When the tax is not adjusted within six (6) months after the death of the decedent, the proper District Court, upon application of the *department*~~[cabinet]~~, shall appoint an administrator in this state.

(2) When evidence of ownership of intangible personal property belonging to a nonresident decedent is found to be physically located in this state, the *Department of* Revenue~~[Cabinet]~~ shall so inform the state official collecting death tax in the state of domicile of the decedent, if that state furnishes like information to the *Department of* Revenue~~[Cabinet]~~ of this state in a reciprocal manner.

Section 465. KRS 140.275 is amended to read as follows:

(1) It is hereby declared to be the legislative policy that Kentucky shall not be a party to interstate double taxation under the terms of the Kentucky inheritance and estate tax laws. Pursuant to this policy, the *commissioner of the Department of Revenue*~~[secretary of revenue]~~ is hereby authorized to omit from the property subject to tax under those laws, any intangible personal property of a nonresident decedent (having a domicile in the United States) held in trust by a Kentucky trustee if the jurisdiction (state, territory or District of Columbia) in which the decedent was domiciled grants similar immunity to residents of Kentucky, but only in the event the personal representative shall present evidence that the tax has been or will be paid to the other jurisdiction. If another state, territory, or the District of Columbia of the United States constitutionally imposes a tax on the transfer of estates or of the distributive shares thereof, but grants immunity from the tax in respect of any intangible property of its resident decedents held in trust by a Kentucky trustee, then the *commissioner of the Department of Revenue*~~[secretary of revenue]~~ is hereby authorized to exclude from the property subject to tax under the Kentucky inheritance and estate tax laws, the intangible personal property of a Kentucky resident held in trust in that jurisdiction but only in the event the personal representative shall present evidence that the tax has been or will be paid to the other jurisdiction.

(2) It is expressly provided, however, in view of the uncertainty now prevailing with respect to the correct interpretation of the Constitution of the United States regarding the jurisdiction of the several states, that the provisions of this section shall be inoperative under the second alternative until and unless an agreement, approved as to legality by the Attorney General, between the *commissioner of the Department of Revenue*~~[secretary of revenue]~~ as agent for Kentucky and the appropriate administrative official of such other state, shall have been executed and an original copy thereof filed with the Kentucky *Department of* Revenue~~[Cabinet]~~.

(3) This section is intended to apply retroactively to all estates of decedents on or after April 25, 1936, which are subject to Kentucky inheritance tax laws.

Section 466. KRS 140.285 is amended to read as follows:

(1) When the *Department of* Revenue~~[Cabinet]~~ claims that a decedent was domiciled in Kentucky at the time of death and the taxing authorities of another state or states make a similar claim with respect to their state or states, the *commissioner of the Department of Revenue*~~[secretary of revenue]~~ may enter into a written agreement with such taxing authorities and the executor, administrator or trustee, fixing the sum acceptable to the *department*~~[cabinet]~~ in full settlement of the inheritance or estate taxes imposable under this chapter. Such agreement shall also fix the sum acceptable to such other state or states in full settlement of the death taxes imposable by such state or states.

(2) If the aggregate amount payable under such agreement to the states involved is less than the maximum sum allowable as a credit to the estate against the federal estate tax imposed thereon, then the executor, administrator or trustee shall also pay to the State of Kentucky as an estate tax so much of the difference between such aggregate amount and the amount of such credit as the amount payable to Kentucky under the agreement bears to such aggregate amount.

Section 467. KRS 140.290 is amended to read as follows:

Whenever debts are proved against the estate of a decedent after the payment of legacies or distribution of property from which the tax has been deducted or upon which it has been paid, and a refund is made by the legatee, devisee, heir or next of kin, a proportion of the tax so deducted or paid shall be repaid to him, by the personal representative or trustee if the tax has not been paid to the *Department of* Revenue~~[Cabinet]~~, or by the *department*~~[cabinet]~~ if it has been so paid.

Section 468. KRS 140.320 is amended to read as follows:

If, within five (5) years after the death of the decedent, a qualified person sells, conveys, or otherwise transfers the ownership, directly or indirectly, of the qualified real estate to any person or persons other than another qualified person who is a joint owner or the qualified real estate is converted to a use other than agricultural or horticultural use, then the qualified persons to whom the property passed at the death of the decedent in whose estate the agricultural or horticultural value was reported shall cause to be paid, pursuant to administrative regulations promulgated by the *Department of* Revenue~~[Cabinet]~~, the additional inheritance tax that would have been due on the decedent's estate if fair market value had been used to compute the tax due on the estate rather than the agricultural or horticultural value, along with interest at the tax interest rate as defined in KRS 131.010(6).

Section 469. KRS 140.330 is amended to read as follows:

In the event the qualified real estate is reported for inheritance tax purposes at its agricultural or horticultural value and that real estate has been assessed at its agricultural or horticultural value for ad valorem tax purposes, then that assessment shall be presumed to be its agricultural or horticultural value for inheritance tax purposes. If, however, the real estate has not been so assessed for ad valorem tax purposes, then the agricultural or horticultural value shall be determined pursuant to KRS Chapter 132 and such regulations as may be promulgated by the *Department of* Revenue~~[Cabinet]~~ to determine horticultural or agricultural value for inheritance tax purposes.

Section 470. KRS 140.350 is amended to read as follows:

At such time as the *Department of* Revenue~~[Cabinet]~~ accepts the agricultural or horticultural value on qualified real estate comprising a portion of a decedent's estate and issues tax waivers thereon, it shall cause to be filed in the office of the county clerk of the county where the real estate or the greater portion thereof is located, on a form prescribed by the *Department of* Revenue~~[Cabinet]~~, a lien which on its face shall expire in five (5) years and the lien shall secure the payment of any additional tax which may become due as the result of the qualified real estate being sold to others than qualified persons or the qualified real estate being converted to other than a qualified use.

If additional taxes are due as the result of the real estate being transferred to other than a qualified person or its use is converted to other than agricultural or horticultural use, and the additional tax is not paid after assessment of the tax, within the time prescribed by the regulations of the *Department of* Revenue~~[Cabinet]~~, then the *Department of* Revenue~~[Cabinet]~~ may proceed to enforce the lien in accordance with law.

Section 471. KRS 141.010 is amended to read as follows:

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

(1) *"Commissioner"*~~["Secretary"]~~ means the *commissioner of the Department of Revenue*~~[secretary of revenue]~~;

(2) *"Department"*~~["Cabinet"]~~ means the *Department of* Revenue~~[Cabinet]~~;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2001, that would otherwise terminate, and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

(e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

(f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;

(i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

2. The "applicable amount" shall be:

a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

3. As used in this paragraph:

a. "Distributions" includes, but is not limited to, any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;

(j) 1. a. Exclude the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and

b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.

2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;

(k) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health insurance, or the value of any voucher or similar instrument used to provide health insurance, which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;

(l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;

(m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;

(n) Exclude any capital gains income attributable to property taken by eminent domain;

(o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;

(q) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted; and

(r) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the

same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(j) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;

(k) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted; and

(l) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for

amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction;

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and

(e) "Taxable net income" in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

Section 472. KRS 141.023 is amended to read as follows:

To facilitate tax computation and tax return preparation, the *Department of* Revenue~~[Cabinet]~~ may develop optional tax tables and specify the classes of taxpayers eligible to utilize the tables in the preparation of their returns.

Section 473. KRS 141.0405 is amended to read as follows:

(1) There shall be allowed a nonrefundable credit against taxes imposed by the Commonwealth on any taxpayer that:

(a) 1. Is an electric power company as defined in KRS Chapter 136; or

2. Is an entity that owns or operates a coal-fired electric generation plant;

(b) Remits tax to the Commonwealth under KRS 136.070, 136.120, 141.020, or 141.040; and

(c) Purchases coal subject to the tax imposed under KRS 143.020 that is used by the taxpayer, or by a parent company if the taxpayer is a wholly owned subsidiary, for the purpose of generating electricity.

(2) The amount of the allowable credit shall be two dollars ($2) per each incentive ton of coal purchased that is subject to tax under KRS 143.020 and that is used to generate electric power.

(3) Incentive tons are calculated as the tons of coal purchased in the current year for which coal severance tax was paid minus the tons of coal purchased and used during the base year.

(4) The base year amount shall be equal to:

(a) For entities existing on July 14, 2000, that meet the eligibility requirements imposed under subsection (1) of this section, the tons of coal purchased and used to generate electricity during the twelve (12) calendar months ending in December 31, 1999, that were subject to the tax imposed by KRS 143.020; or

(b) For entities that come into existence after July 14, 2000, that meet the eligibility requirements imposed under subsection (1) of this section, the base year amount shall be equal to zero (0). However, no company qualifying for the credit as of July 14, 2000, with a base year calculation as provided under subsection (4)(a) of this section may create an affiliate, subsidiary, or corporation that would qualify for a base year of zero (0).

(5) On or before March 15 of each year, a company eligible for the credit provided under subsection (2) of this section shall file a coal incentive credit claim on forms prescribed by the *Department of* Revenue~~[Cabinet]~~. At the time of filing for the credit, the taxpayer shall submit verification of the tons of coal purchased in the base year and the tons of coal purchased in the year for which the credit is being claimed. The *Department of* Revenue~~[Cabinet]~~ shall determine the amount of the eligible credit and issue a credit certificate to the taxpayer.

(6) The taxpayer shall be eligible to apply, subject to the conditions imposed under subsection (7) of this section, the amount identified on the credit certificate issued by the *Department of* Revenue~~[Cabinet]~~ under subsection (5) of this section, against the taxpayer's liability for the taxes, in consecutive order as follows:

(a) KRS 141.040;

(b) KRS 141.020;

(c) KRS 136.070; and

(d) KRS 136.120.

(7) The credit shall meet the entirety of the taxpayer's liability under the first tax listed in consecutive order under subsection (6) of this section before applying the remaining credit to the next tax listed in consecutive order. The taxpayer's total liability under each preceding tax must be fully met before the remaining credit can be applied to the subsequent tax listed in consecutive order.

(8) The taxpayer shall maintain records required in subsection (5) of this section for a period of five (5) years.

(9) Acceptable verification of coal purchased during the base year shall include invoices that indicate the tons of coal purchased from a Kentucky supplier of coal and proof of remittance for that purchase.

(10) The *Department of* Revenue~~[Cabinet]~~ shall develop the forms required under subsection (5) of this section, specifying the procedure for claiming the credit, and applying the credit against the taxpayer's liability in the order provided under subsections (6) and (7) of this section.

Section 474. KRS 141.041 is amended to read as follows:

(1) There shall be allowed a credit against the tax imposed on any corporation subject to taxation under KRS 141.040 and which, on or after January 1, 1984, installs, modifies, and utilizes facilities located in Kentucky

for generating steam or hot water for space-heating or materials processing or for providing direct heat for industrial processes in the following ways:

(a) Replacement of an existing heat-generating facility not capable of using coal as a fuel with one in which coal can be used;

(b) Erection of a heat-generating facility additional to any existing heat-generating facility or facilities and capable of using coal as a fuel;

(c) Refurbishment for coal utilization of heat-generating facilities which were at one time capable of using coal but which had been altered to allow use of other fuels;

(d) Alteration of an existing heat-generating facility not capable of utilizing coal in such ways as to allow the use of coal;

(e) Substitution of coal for other fuels in any heat-generating facility which on January 1, 1984, was in existence and capable of utilizing coal and other fuels. Substitution means the increased heat input in BTU from coal matched by equal decreases of heat input in equivalent measures to BTU from other fuels, based upon relative fuel usage in the calendar year preceding the year in which the substitution occurred.

(2) The amount of the allowable credit shall be equal to four and one-half percent (4.5%) of the purchase price of the coal subject to taxation under KRS Chapter 143 consumed or substituted in each eligible heating facility as described in subsection (1) of this section, minus any transporting cost included in the purchase price.

(3) The credit shall be allowed for ten (10) years consecutive from the date of the initial installation, modification, or utilization of any heat-generating facility installed or modified on and after January 1, 1984, as defined in subsection (1)(a), (b), (c), and (d) of this section or ten (10) years consecutive from the filing of a fuel-switching credit claim in subsection (1)(e) of this section.

(4) The credit allowable under this section shall be applied against the taxpayer's tax liability as provided in KRS 141.0205, and no part of the credit shall be applicable to the tax imposed by KRS 141.040 for any other taxable year.

(5) A corporation claiming the credit under this section must submit proof of the installation, modification, utilization or substitution as required by regulations issued by the *Department of* Revenue~~[Cabinet]~~ prior to the claiming of such credit.

Section 475. KRS 141.042 is amended to read as follows:

(1) For all taxable years beginning on or after July 1, 1966, every corporation subject to taxation under KRS 141.040 shall make a declaration of estimated tax if the tax imposed by KRS 141.040 for the taxable year can reasonably be expected to exceed five thousand dollars ($5,000).

(2) The declaration required under subsection (1) shall contain the following information:

(a) The amount which is estimated as the amount of tax under KRS 141.040 for the taxable year;

(b) The excess of the amount estimated under paragraph (a) over five thousand dollars ($5,000), which excess for purposes of this section and KRS 141.044 and 141.205 shall be considered the estimated tax for the taxable year;

(c) Such other information as the *department*~~[cabinet]~~ by forms or regulations may prescribe.

(3) The declaration required under subsection (1) shall be filed with the *department*~~[cabinet]~~ on or before June 15 of the taxable year, except that if the requirements of subsection (1) are first met:

(a) After June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15 of the taxable year;

(b) After September 1 of the taxable year, the declaration shall be filed on or before December 15 of the taxable year.

(4) A corporation may make amendments of a declaration filed during the taxable year in accordance with regulations prescribed by the *department*~~[cabinet]~~. An amendment of a declaration may be filed in any interval between the installment dates prescribed for that taxable year but only one (1) amendment may be filed in each such interval. If any amendment of a declaration is filed, the remaining installments, if any, shall be ratably

increased or decreased as the case may be, to reflect the increase or decrease of the estimated tax by reason of such amendment. If any amendment is made after September 15 of the taxable year, any increase in the estimated tax by reason thereof shall be paid in full at the time of making such amendment.

(5) A corporation with a taxable year of less than twelve (12) months shall make a declaration in accordance with regulations prescribed by the *department*~~[cabinet]~~.

(6) The *department*~~[cabinet]~~ may grant a reasonable extension of time for filing declarations and paying the estimated tax under such rules and regulations as it may prescribe. If any extension operates to postpone a payment of estimated tax, interest at the rate of eight percent (8%) per annum shall be collected.

Section 476. KRS 141.050 is amended to read as follows:

(1) Except to the extent required by differences between this chapter and its application and the federal income tax law and its application, the administrative and judicial interpretations of the federal income tax law, computations of gross income and deductions therefrom, accounting methods, and accounting procedures, for purposes of this chapter shall be as nearly as practicable identical with those required for federal income tax purposes. Changes to federal income tax law made after the Internal Revenue Code reference date contained in KRS 141.010(3) shall not apply for purposes of this chapter unless adopted by the General Assembly.

(2) Every person subject to the provisions of this chapter shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations as the *department*~~[cabinet]~~ from time to time may prescribe. Whenever the *department*~~[cabinet]~~ judges it necessary, it may require such person, by notice served upon him, to make a return, render under oath such statements, or keep such records, as the *department*~~[cabinet]~~ deems sufficient to show whether or not such person is liable for tax, and the extent of such liability.

(3) The *commissioner*~~[secretary]~~ or his authorized agent or representative, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any taxpayers, may require the attendance of the taxpayer or of any other person having knowledge in the premises.

(4) The *department*~~[cabinet]~~ shall prescribe the forms and reports necessary to the proper administration of any and all provisions of this chapter, and shall promulgate such rules and regulations necessary to effectively carry out the provisions of this chapter.

Section 477. KRS 141.068 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Authority" means the Kentucky Economic Development Finance Authority as created pursuant to KRS 154.20-010;

(b) "Investor" has the same meaning as set forth in KRS 154.20-254;

(c) "Investment fund" has the same meaning as set forth in KRS 154.20-254;

(d) "Investment fund manager" has the same meaning as set forth in KRS 154.20-254; and

(e) "Tax credit" means the credits provided for in KRS 154.20-258.

(2) (a) An investor which is an individual or a corporation shall be entitled to the credit certified by the authority under KRS 154.20-258 against the income tax due computed as provided by KRS 141.020 or 141.040, respectively.

(b) The amount of the certified tax credit that may be claimed in any tax year of the investor shall be determined in accordance with the provisions of KRS 154.20-258.

(3) (a) In the case of an investor that is an S-corporation, partnership, limited partnership, limited liability company, or limited liability partnership, the amount of the tax credit certified by the authority under KRS 154.20-258 shall be apportioned among the shareholders, partners, or members thereof, as applicable, at the same ratio as the shareholders', partners', or members' distributive shares of income are determined for the tax year during which the amount of the credit is certified by the authority.

(b) The amount of the tax credit apportioned to each shareholder, partner, or member that may be claimed in any tax year of the shareholder, partner, or member shall be determined in accordance with the provisions of KRS 154.20-258.

(4) (a) In the case of an investor that is a trust, the amount of the tax credit certified by the authority under KRS 154.20-258 shall be apportioned to the trust and the beneficiaries on the basis of the income of the trust allocable to each for the tax year during which the tax credit is certified by the authority.

(b) The amount of tax credit apportioned to each trust or beneficiary that may be claimed in any tax year of the trust or beneficiary shall be determined in accordance with the provisions of KRS 154.20-258.

(5) The *Department of* Revenue~~[Cabinet]~~ shall promulgate administrative regulations under KRS Chapter 13A adopting forms and procedures for the reporting and administration of credits authorized by KRS 154.20-258.

Section 478. KRS 141.070 is amended to read as follows:

(1) Whenever an individual who is a resident of this state has become liable for income tax to another state upon all or any part of his net income for the taxable year, derived from sources without this state and subject to taxation under this chapter, the amount of income tax payable by him under this chapter shall be credited on his return with the income tax so paid by him to the other state, upon his producing to the proper assessing officer satisfactory evidence of the fact of such payment, except that application of such credits shall not operate to reduce the tax payable under this chapter to an amount less than would have been payable were the income from the other state ignored.

(2) An individual who is not a resident of this state shall not be liable for any income tax under KRS 141.020(4) if the laws of the state of which such individual was a resident at the time such income was earned in this state contained a reciprocal provision under which nonresidents were exempted from gross or net income taxes to such state, if the state of residence of such nonresident individual allowed a similar exemption to resident individuals of this state. The exemption authorized by this subsection shall in no manner preclude the *Department of* Revenue~~[Cabinet]~~ from requiring any information reports pursuant to KRS 141.150(2).

Section 479. KRS 141.072 is amended to read as follows:

The designation for a political party shall appear on the face of the individual income tax return. Fifty cents ($0.50) of any designation pursuant to KRS 141.071 shall be reserved for remittance to the appropriate official of the local governing authority of the designated political party within the taxpayer's resident county. The remainder of the designation shall be reserved for remittance to the appropriate official of the state governing authority of the designated political party. The *commissioner of the Department of Revenue*~~[secretary of revenue]~~ shall annually certify by December 1 all such designated amounts to be paid by the State Treasurer, and the Treasurer shall annually remit by the following January 1 such funds to the appropriate official of the state and local governing authorities of the designated political party.

Section 480. KRS 141.073 is amended to read as follows:

The *Department of* Revenue~~[Cabinet]~~ shall promulgate such rules and regulations as may be necessary to effectively administer the provisions of KRS 141.071 and 141.072.

Section 481. KRS 141.120 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Business income" means income arising from transactions and activity in the regular course of a trade or business of the corporation and includes income from tangible and intangible property if the acquisition, management, or disposition of the property constitutes integral parts of the corporation's regular trade or business operations;

(b) "Commercial domicile" means the principal place from which the trade or business of the corporation is managed;

(c) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid or payable to employees for personal services;

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, investment company, or any type of insurance company;

(e) "Nonbusiness income" means all income other than business income;

(f) "Public service company" means any business entity subject to taxation under KRS 136.120;

(g) "Sales" means all gross receipts of the corporation not allocated under subsections (3) through (7) of this section;

(h) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(2) Any corporation which is required by KRS 141.010(14)(b) to allocate and apportion its net income shall allocate and apportion its net income as provided in this section.

(3) Rents and royalties from real, intangible or tangible personal property, capital gains and losses, interest, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (4) through (7) of this section.

(4) (a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rents and royalties from tangible personal property are allocable to this state if and to the extent that the property is utilized in this state; or in their entirety if the corporation's commercial domicile is in this state and the corporation is not organized under the laws of or taxable in the state in which the property is utilized.

(c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the corporation, the tangible personalty is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(d) Net rents and royalties from intangible personal property located in this state are allocable to this state. For purposes of this section, royalties from property leased in Kentucky shall be considered as royalties from intangible personal property.

(5) (a) Capital gains and losses from sales or other dispositions of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales or other dispositions of tangible personal property are allocable to this state if the property had a situs in this state at the time of the sale, or the corporation's commercial domicile is in this state and the corporation is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales or other dispositions of intangible personal property are allocable to this state if the corporation's commercial domicile is in this state.

(6) Interest is allocable to this state if the corporation's commercial domicile is in this state.

(7) (a) Patent and copyright royalties are allocable to this state if and to the extent that the patent or copyright is utilized by the payer in this state; or if and to the extent that the patent or copyright is utilized by the payer in a state in which the corporation is not taxable and the corporation's commercial domicile is in this state.

(b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the corporation's commercial domicile is located.

(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the corporation's commercial domicile is located.

(8) Except as provided for in subsection (9) of this section, all business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction

based on property, payroll, and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five percent (25%) of the fraction shall be used.

(a) The property factor is a fraction, the numerator of which is the average value of the corporation's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the corporation's real and tangible personal property owned or rented and used during the tax period; provided, however, that property which has been certified as a pollution control facility as defined in KRS 224.01-300 shall be excluded from the property factor.

1. Property owned is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero (0) the property shall be valued by the *department*~~[cabinet]~~ pursuant to administrative regulations promulgated by the *department*~~[cabinet]~~. Property rented is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the corporation less any annual rental rate received by the corporation from subrentals, provided that the rental and subrentals are reasonable. If the *department*~~[cabinet]~~ determines that the annual rental or subrental rate is unreasonable, or if a nominal or zero (0) rate is charged, the *department*~~[cabinet]~~ may determine and apply the rental rate as will reasonably reflect the value of the property rented by the corporation.

2. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the *department*~~[cabinet]~~ may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the property.

(b) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the corporation for compensation, and the denominator of which is the total compensation paid or payable by the corporation everywhere during the tax period. Compensation is paid or payable in this state if:

1. The individual's service is performed entirely within the state;

2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

3. Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(c) 1. The sales factor is a fraction, the numerator of which is the total sales of the corporation in this state during the tax period, and the denominator of which is the total sales of the corporation everywhere during the tax period.

2. Sales of tangible personal property are in this state 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 this state 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 this state and the purchaser is the United States government.

3. Sales, other than sales of tangible personal property, are in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(9) (a) If the allocation and apportionment provisions of this section do not fairly represent the extent of the corporation's business activity in this state, the corporation may petition for or the *department*~~[cabinet]~~ may require, in respect to all or any part of the corporation's business activity, if reasonable:

1. Separate accounting;

2. The exclusion of any one (1) or more of the factors;

3. The inclusion of one (1) or more additional factors which will fairly represent the corporation's business activity in this state; or

4. The employment of any other method to effectuate an equitable allocation and apportionment of income.

(b) A corporation may elect the allocation and apportionment methods for the corporation's business income provided for in subparagraphs 1. and 2. of this paragraph. The election, if made, shall be irrevocable for a period of five years.

1. All business income derived directly or indirectly from the sale of management, distribution, or administration services to or on behalf of regulated investment companies, as defined under the Internal Revenue Code of 1986, as amended, including trustees, and sponsors or participants of employee benefit plans which have accounts in a regulated investment company, shall be apportioned to this state only to the extent that shareholders of the investment company are domiciled in this state as follows:

a. Total business income shall be multiplied by a fraction, the numerator of which shall be Kentucky receipts from the services for the tax period and the denominator of which shall be the total receipts everywhere from the services for the tax period.

b. For purposes of subdivision a. of this subparagraph, Kentucky receipts shall be determined by multiplying total receipts for the tax period from each separate investment company for which the services are performed by a fraction. The numerator of the fraction shall be the average of the number of shares owned by the investment company's shareholders domiciled in this state at the beginning of and at the end of the investment company's taxable year, and the denominator of the fraction shall be the average of the number of the shares owned by the investment company shareholders everywhere at the beginning of and at the end of the investment company's taxable year.

c. Nonbusiness income shall be allocated to this state as provided in subsections (4) through (7) of this section.

2. All business income derived directly or indirectly from the sale of securities brokerage services by a business which operates within the boundaries of any area of the Commonwealth, which on June 30, 1992, was designated as a Kentucky Enterprise Zone, as defined in KRS 154.655(2), shall be apportioned to this state only to the extent that customers of the securities brokerage firm are domiciled in this state. The portion of business income apportioned to Kentucky shall be determined by multiplying the total business income from the sale of these services by a fraction determined in the following manner:

a. The numerator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by customers domiciled in Kentucky for the brokerage firm's taxable year; and

b. The denominator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by all of the brokerage firm's customers for that year.

c. Nonbusiness income shall be allocated to this state as provided in subsections (4) through (7) of this section.

(10) Public service companies and financial organizations required by KRS 141.010(14)(b) to allocate and apportion net income shall allocate and apportion such income as follows:

(a) Nonbusiness income shall be allocated to this state as provided in subsections (4) through (7) of this section.

(b) Business income shall be apportioned to this state by multiplying the business income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll, and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll

factor representing twenty-five percent (25%) of the fraction shall be used. The payroll factor shall be determined as provided in subsection (8)(b) of this section. The property factor and sales factor shall be determined as provided by administrative regulations promulgated by the *department*~~[cabinet]~~.

(c) An affiliated group electing to file a consolidated return under KRS 141.200(3) that includes a public service company or financial organization shall determine the amount of payroll to be included in the apportionment factor as provided in subsection (8)(b) of this section. The amount of property and sales of the public service company or financial organization to be included in the apportionment factors of the affiliated group shall be determined in accordance with administrative regulations promulgated by the *department*~~[cabinet]~~ under paragraph (b) of this subsection.

Section 482. KRS 141.150 is amended to read as follows:

(1) Every corporation subject to the jurisdiction of this state, unless excused by the *department*~~[cabinet]~~, shall render a correct report of its payments of dividends to residents of this state, stating the name and address of each shareholder, the number of shares owned by him, and the amount of dividends paid to him.

(2) Every person subject to the jurisdiction of this state, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries and employers, making payment to another person, domiciled in this state, of interest, rent, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable gains, profits and income not subject to withholding provisions contained in KRS 141.310 of six hundred dollars ($600) or more in any taxable year, shall render a true and accurate report to the *department*~~[cabinet]~~ of the payments made. Every person subject to the jurisdiction of this state, in whatever capacity acting, making payment of wages to another person domiciled in this state, shall render a true and accurate report to the *department*~~[cabinet]~~ of the payments made. In the case of such payments made by the state and its political subdivisions, the officers or employees having information as to such payments designated by the *department*~~[cabinet]~~ by the regulations hereinafter provided for shall make such reports. The reports shall be made under the regulations and in the form and manner and to the extent prescribed by the *department*~~[cabinet]~~, and shall set forth the amount of the gains, wages, profits and income, and the name and address of the recipient of the payments. The *department*~~[cabinet]~~ may also require any person to make information reports respecting nonresidents it believes to be subject to income tax.

(3) The reports contemplated by this section may be required, regardless of amounts, in the case of payments of dividends or interest upon bonds, mortgages, deeds of trust or other similar obligations of corporations. When necessary to make effective the provisions of this section, the name and address of the recipient of the income shall be furnished upon demand of the person paying the income. The provisions of this section shall not apply to the payment of interest on obligations of the United States or of this state, or the political subdivisions thereof.

Section 483. KRS 141.160 is amended to read as follows:

(1) All returns of income 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 of income shall be supplied by the *department*~~[cabinet]~~.

(2) Whenever, in the opinion of the *department*~~[cabinet]~~, it is necessary to examine the federal income tax return or a copy thereof of any taxpayer in order to audit his return, the *department*~~[cabinet]~~ may compel the taxpayer to produce for inspection a copy of his federal return and all statements and schedules in support thereof. The *department*~~[cabinet]~~ may also require copies of reports of adjustments made by the federal government.

Section 484. KRS 141.170 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~ may grant any taxpayer other than a corporation a reasonable extension of time for filing an income tax return whenever good cause exists, and shall keep a record of every extension. Except in the case of an individual who is abroad, no extension shall be granted for more than six (6) months. In the case of an individual who is abroad, the extension shall not be granted for more than one (1) year.

(2) A corporation may be granted an extension of not more than six (6) months for filing its income tax return, provided the corporation, on or before the date prescribed for payment of the tax, requests the extension and pays the amount properly estimated as its tax.

(3) If the time for filing a return is extended, the taxpayer shall pay, as part of the tax, an amount equal to the tax interest rate as defined in KRS 131.010(6) 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 with the *department*~~[cabinet]~~.

Section 485. KRS 141.180 is amended to read as follows:

(1) Every individual, except as otherwise provided in this section, having for the taxable year an adjusted gross income which exceeds five thousand dollars ($5,000), if single, or if married and not living with husband or wife and every married individual living with husband or wife whose adjusted gross income combined with the adjusted gross income of his or her spouse exceeds five thousand dollars ($5,000) shall make to the *department*~~[cabinet]~~ a return stating specifically the items which he claims as deductions and tax credits allowed by this chapter.

(2) Any individual who is blind or who has attained the age of sixty-five (65) before the close of his taxable year shall be required to make a return only if he has for the taxable year an adjusted gross income which exceeds five thousand dollars ($5,000). Every married individual living with husband or wife shall, if both spouses have attained the age of sixty-five (65), be required to make a return if the combined adjusted gross income of both spouses exceeds five thousand four hundred dollars ($5,400). If the individual is unable to make his own return, the return shall be made by a duly authorized agent.

(3) Any individual, who is both sixty-five (65) or over and blind before the close of the taxable year, shall make a return if he has for the taxable year an adjusted gross income which exceeds five thousand dollars ($5,000).

(4) Notwithstanding any other provision of this section, an individual, having for the taxable year gross income from self-employment of five thousand dollars ($5,000) or more, shall make a return.

(5) Any nonresident individual with gross income from Kentucky sources and a total gross income of five thousand dollars ($5,000) or over shall make a return.

(6) A husband and wife not living together shall make separate returns. A husband and wife living together may make a joint return, or may make separate returns. However, in the event separate returns are made, neither spouse shall report income nor claim deductions properly attributable to the other.

(7) Notwithstanding any other provisions of KRS Chapters 131 and 141, a husband or a wife who is jointly and severally liable for taxes levied under KRS 141.020, applicable penalties, and interest shall be relieved of liability for tax, interest, penalties, and other amounts if:

(a) The spouse has been relieved of liability for federal income tax, interest, penalties, and other amounts for the same taxable year by the Internal Revenue Service under Section 6015 of the Internal Revenue Code; or

(b) It is shown that the spouse would have qualified for relief under the provisions of Section 6015 of the Internal Revenue Code for the same taxable year if there had been a federal income tax liability.

(8) Any relief granted pursuant to paragraphs (a) and (b) of subsection (7) of this section shall not result in a tax overpayment to the spouse requesting relief.

(9) Each individual return shall be verified by a written declaration that it is made under the penalties of perjury.

Section 486. KRS 141.190 is amended to read as follows:

(1) Every fiduciary, except a receiver appointed by authority of law in possession of part only of the property of an individual, shall make under oath a return for any of the following individuals, estates, or trusts for which he acts, setting forth therein such information as may be prescribed by the *department*~~[cabinet]~~:

(a) Every individual having an adjusted gross income for the taxable year which exceeds five thousand dollars ($5,000);

(b) Every estate the gross income of which for the taxable year is twelve hundred dollars ($1,200) or over;

(c) Every trust the gross income of which for the taxable year is one hundred dollars ($100) or over.

(2) Any fiduciary required to make a return under this chapter shall be subject to all the provisions of this chapter that apply to individuals.

Section 487. KRS 141.200 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Affiliated group" means affiliated group as defined in Section 1504(a) of the Internal Revenue Code and related regulations;

(b) "Consolidated return" means a Kentucky corporation income tax return filed by members of an affiliated group in accordance with this section. The determinations and computations required by this chapter shall be made in accordance with the provisions of Section 1502 of the Internal Revenue Code and related regulations, except as required by differences between this chapter and the Internal Revenue Code. Corporations exempt from taxation under KRS 141.040 shall not be included in the return;

(c) "Separate return" means a Kentucky corporation income tax return in which only the transactions and activities of a single corporation are considered in making all determinations and computations necessary to calculate taxable net income, tax due, and credits allowed in accordance with the provisions of this chapter.

(2) Every corporation doing business in this state, except those exempt from taxation under KRS 141.040, shall, for each taxable year, file a separate return unless the corporation was, for any part of the taxable year, a member of an affiliated group electing to file a consolidated return in accordance with subsection (3) of this section.

(3) (a) An affiliated group, whether or not filing a federal consolidated return, may elect to file a consolidated return which includes all members of the affiliated group.

(b) An affiliated group electing to file a consolidated return under paragraph (a) of this subsection shall be treated for all purposes as a single corporation under the provisions of this chapter. All transactions between corporations included in the consolidated return shall be eliminated in computing net income in accordance with KRS 141.010(13), and in determining the property, payroll, and sales factors in accordance with KRS 141.120.

(c) Any election made in accordance with paragraph (a) of this subsection shall be made on a form prescribed by the *department*~~[cabinet]~~ and shall be submitted to the *department*~~[cabinet]~~ on or before the due date of the return including extensions for the first taxable year for which the election is made.

(d) Any election to file a consolidated return pursuant to paragraph (a) of this subsection shall be binding on both the *department*~~[cabinet]~~ and the affiliated group for a period beginning with the first month of the first taxable year for which the election is made and ending with the conclusion of the taxable year in which the ninety-sixth consecutive calendar month expires.

(e) For each taxable year for which an affiliated group has made an election in accordance with paragraph (a) of this subsection, the consolidated return shall include all corporations which are members of the affiliated group.

(4) Each corporation included as part of an affiliated group filing a consolidated return shall be jointly and severally liable for the income tax liability computed on the consolidated return, except that any corporation which was not a member of the affiliated group for the entire taxable year shall be jointly and severally liable only for that portion of the Kentucky consolidated income tax liability attributable to that portion of the year that the corporation was a member of the affiliated group.

(5) Every corporation return or report required by this chapter shall be executed by one (1) of the following officers of the corporation: the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting officer. The *Department of* Revenue~~[Cabinet]~~ may require a further or supplemental report of further information and data necessary for computation of the tax.

(6) In the case of a corporation doing business in this state that carries on transactions with stockholders or with other corporations related by stock ownership, by interlocking directorates, or by some other method, the *department*~~[cabinet]~~ shall require information necessary to make possible accurate assessment of the income derived by the corporation from sources within this state. To make possible such assessment, the *department*~~[cabinet]~~ may require the corporation to file supplementary returns showing information respecting the business of any or all individuals and corporations related by one (1) or more of these methods to the corporation. The *department*~~[cabinet]~~ may require the return to show in detail the record of transactions between the corporation and any or all other related corporations or individuals.

(7) For any taxable year ending on or after December 31, 1995, except as provided under subsection (3) of this section, nothing in this chapter shall be construed as allowing or requiring the filing of:

(a) A combined return under the unitary business concept; or

(b) A consolidated return.

(8) No assessment of additional tax due for any taxable year ending on or before December 31, 1995, made after December 22, 1994, and based on requiring a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, shall be effective or recognized for any purpose.

(9) No claim for refund or credit of a tax overpayment for any taxable year ending on or before December, 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, shall be effective or recognized for any purpose.

(10) No corporation or group of corporations shall be allowed to file a combined return under the unitary business concept or a consolidated return for any taxable year ending before December 31, 1995, unless on or before December 22, 1994, the corporation or group of corporations filed an initial or amended return under the unitary business concept or consolidated return for a taxable year ending before December 22, 1994.

(11) This section shall not be construed to limit or otherwise impair the *department's*~~[cabinet's]~~ authority under KRS 141.205.

Section 488. KRS 141.205 is amended to read as follows:

(1) The *department*~~[cabinet]~~ may require either a consolidated return or a combined return from any or all corporations conducting inter-corporate transactions whenever the *department*~~[cabinet]~~ finds that such inter-corporate transactions reduce taxable net income, as defined in KRS 141.010(14), of the corporation(s) below the amount which would result if the transactions were at arm's length.

(2) The *department*~~[cabinet]~~ is authorized and empowered to assess the tax against any of the corporations whose income is included in the consolidated or combined return in such manner as it may determine necessary to prevent the avoidance of income tax.

(3) In the case of corporations not required to file a consolidated or combined return under subsection (1) of this section that carried on transactions with stockholders or affiliated corporations directly or indirectly, the *department*~~[cabinet]~~ shall adjust the net income of such corporations to an amount that would result if such transactions were carried on at arm's length.

Section 489. KRS 141.206 is amended to read as follows:

(1) Every partnership or S corporation owning property or engaging in business in Kentucky, shall, on or before the fifteenth day of the fourth month following the close of its annual accounting period, file a copy of its federal partnership return or S corporation return with the form prescribed and furnished by the *department*~~[cabinet]~~.

(2) Partnerships and S corporations shall determine taxable income in the same manner as in the case of an individual under KRS 141.010(9) to (11) and the adjustment required under Sections 703(a) and 1363(b) of the Internal Revenue Code. Computation of taxable income under this section and the computation of the partners or shareholders distributive share shall be computed as nearly as practicable identical with those required for federal income tax purposes except to the extent required by differences between this chapter and the federal income tax law and regulations.

(3) Individuals or corporations carrying on a business as a partnership or S corporation shall be liable for income tax only in their individual or corporate capacities, and no income tax shall be assessed upon the income of any partnership or S corporation except as prescribed in KRS 141.040(5).

(a) Resident and nonresident individuals who are partners or S corporation shareholders must report and pay tax on the distributive share of net income, gain, loss, deduction, or credit, as determined in subsection (2) of this section, except as provided in subsections (4) and (5) of this section. Partnerships and S corporations may be required to withhold Kentucky income tax on the distributive share under administrative regulations issued by the *department*~~[cabinet]~~.

(b) Corporations which are partners must include their distributive share of net income, gain, loss, deduction or credit, as determined under subsection (2) of this section, except as provided in subsections (4) and (5) of this section.

(4) Resident and nonresident individuals and corporations which are partners in a partnership or shareholders in an S corporation carrying on business only in Kentucky are taxable on all items of income gain, loss, deduction or

credit determined under subsection (2) of this section and reported as their distributive share from the partnership or S corporation.

(5) Nonresident individuals and corporations which are partners in a partnership or shareholders in an S corporation which does business within and without Kentucky are taxable on their proportionate share of the distributive income passed through the partnership or S corporation attributable to business done in Kentucky.

(a) Business done in Kentucky is determined by the ratio of gross receipts from sales to purchasers or customers in Kentucky or services performed in Kentucky to the total gross receipts from sales or service everywhere.

(6) Resident partners, S corporation shareholders and corporations which are partners in a multistate partnership or shareholders in a multistate S corporation are taxable on one hundred percent (100%) of the distributive share of income, gains, losses, deductions or credits.

(7) Resident individuals who are partners in a partnership or shareholders in an S corporation which does not carry on business in Kentucky are subject to tax under KRS 141.020 on federal net income, gain, deduction, loss or credit passed through the partnership or S corporation.

(8) S corporation for purpose of this section means a corporation which has elected for federal tax purposes to be taxed as an S corporation. An election for federal tax purposes is a binding election for Kentucky tax purposes.

(9) Nonresident individuals shall not be taxable on investment income distributed by a qualified investment partnership. For purposes of this subsection a "qualified investment partnership" means a partnership formed to hold only investments that produce income that would not be taxable to the nonresident individual if held or owned individually.

Section 490. KRS 141.210 is amended to read as follows:

(1) As used in this section and KRS 141.235, 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 as reported on the taxpayer'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 *department*~~[cabinet]~~ shall examine and audit it. If the amount of tax computed by the *department*~~[cabinet]~~ is greater than the amount returned by the taxpayer, the additional tax shall be assessed and a notice of assessment mailed to the taxpayer by the *department*~~[cabinet]~~ within four (4) 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 taxpayer other than a corporation understates his net income or omits an amount properly includable in net income or both which understatement or omission or both is in excess of twenty-five percent (25%) of the amount of net income 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 a return where a corporation understates its taxable net income or omits an amount properly includable in taxable net income or both, which understatement or omission or both is in excess of twenty-five percent (25%) of the amount of taxable net income stated in the return, the additional tax may be assessed at any time within six (6) years after the return was filed.

(d) 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 months from the date the *department*~~[cabinet]~~ receives the final determination of the federal audit from the taxpayer, whichever is later.

(e) In the case of the assessment of additional tax resulting from a decrease of a net operating loss deduction or a capital loss deduction, resulting from the carryback of a loss which occurs in a taxable year beginning after December 31, 1993, the additional tax may be assessed at any time before the expiration of the times provided for in this subsection for assessing additional tax for the taxable year which resulted in the net operating loss or capital loss carryback.

The times provided in this subsection may be extended by agreement between the taxpayer and the *department*~~[cabinet]~~. 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. For taxable years beginning after December 31, 1993, any extension granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

(3) If any additional tax is assessed on account of any income which has been returned for taxation by any other taxpayer, the *department*~~[cabinet]~~, with the consent of the other taxpayer, his personal representatives, or heirs, shall reduce the amount of the additional tax assessed for each year by the amount of the income tax paid for that year by the other taxpayer on account of the income in question.

(4) Every taxpayer shall:

(a) Notify the *department*~~[cabinet]~~ in writing of every audit of the taxpayer's federal income tax return within thirty (30) days after the taxpayer has or should have had knowledge of the beginning of the audit by the Internal Revenue Service, and

(b) Submit a copy of the final determination of the federal audit within thirty (30) days of the conclusion of the federal audit.

Section 491. KRS 141.220 is amended to read as follows:

The full amount of the unpaid tax payable by any taxpayer, as appears from the face of the return, shall be paid to the *department*~~[cabinet]~~ at the time prescribed for filing the income tax return, determined without regard to any extension of time for filing the return.

Section 492. KRS 141.235 is amended 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 this chapter.

(2) Any tax collected pursuant to the provisions of this chapter may be refunded or credited in accordance with the provisions of KRS 134.580, except that:

(a) In any case where the assessment period contained in KRS 141.210 has been extended by an agreement between the taxpayer and the *department*~~[cabinet]~~, 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 taxpayer 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.

(c) If the claim for refund or credit relates to an overpayment attributable to a net operating loss carryback or capital loss carryback, resulting from a loss which occurs in a taxable year beginning after December 31, 1993, the claim for refund or credit shall be filed within the times prescribed in this subsection for the taxable year of the net operating loss or capital loss which results in the carryback.

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) Overpayments of taxes collected pursuant to KRS 141.300, 141.310, or 141.315 shall be refunded or credited with interest at the tax interest rate as defined in KRS 131.010(6). The interest shall not begin to accrue until ninety (90) days after the tax was paid, the return was filed, or the last day prescribed by law for filing the return, whichever is later.

(4) Exclusive authority to refund or credit overpayments of taxes collected pursuant to this chapter is vested in the *commissioner*~~[secretary]~~ or his authorized agent. Amounts directed to be refunded shall be paid out of the general fund.

Section 493. KRS 141.300 is amended to read as follows:

(1) Every individual shall, at the time prescribed in subsection (3), make a declaration of his estimated tax for the taxable year if his gross income from sources other than wages upon which Kentucky income tax will be withheld can reasonably be expected to exceed five thousand dollars ($5,000) for the taxable year and his gross income or adjusted gross income can reasonably be expected to be an amount not less than the amount for

which a return is required under KRS 141.180. No declaration of estimated tax shall be required if the estimated tax liability can reasonably be expected to be five hundred dollars ($500) or less.

(2) In the declaration required under subsection (1), the individual shall state:

(a) The amount which he estimates as the amount of tax under KRS 141.020 for the taxable year;

(b) The amount which he estimates as the credits for the taxable year under KRS 141.310, 141.315, and 141.065;

(c) The excess of the amount estimated under paragraph (a) over the amount estimated under paragraph (b), which excess for purposes of this chapter shall be considered the estimated tax for the taxable year; and

(d) Other information as may be prescribed in administrative regulations promulgated by the *department*~~[cabinet]~~.

(3) The declaration required under subsection (1) shall be filed with the *department*~~[cabinet]~~ on or before April 15 of the taxable year, except that if the requirements of subsection (1) are first met:

(a) After April 1 and before June 2 of the taxable year, the declaration shall be filed on or before June 15 of the taxable year; or

(b) After June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15 of the taxable year; or

(c) After September 1 of the taxable year, the declaration shall be filed on or before January 15 of the succeeding taxable year.

(4) An individual may amend a declaration filed during the taxable year under subsection (3) pursuant to administrative regulations prescribed by the *department*~~[cabinet]~~.

(5) If, on or before January 31 of the succeeding taxable year an individual files a return for the taxable year for which the declaration is required and pays in full the amount computed on the return as payable, then, under administrative regulations prescribed by the *department*~~[cabinet]~~:

(a) If the declaration is not required to be filed during the taxable year, but is required to be filed on or before January 15 of the taxable year, the return shall, for the purposes of this section, be considered as the declaration; and

(b) If the tax shown on the return, reduced by the credits under KRS 141.350, is greater than the estimated tax shown in a declaration previously made or, in the last amendment thereof, the return shall, for the purposes of this section, be considered as the amendment of the declaration permitted by subsection (4) to be filed on or before January 15 of the taxable year.

(6) The *department*~~[cabinet]~~ shall promulgate administrative regulations governing reasonable extensions of time for filing declarations and paying the estimated tax. Except in the case of an individual who is abroad, no extension shall be for more than six (6) months.

(7) If an individual is unable to make his own declaration, the declaration shall be made by a duly authorized agent or by the guardian, conservator, or other person charged with the care of the person or property of the individual.

(8) For the purposes of KRS 131.190, a declaration of estimated tax shall be held and considered a return of income under this chapter.

Section 494. KRS 141.305 is amended to read as follows:

(1) The estimated tax provided for in KRS 141.300 shall be paid as follows:

(a) If the declaration is filed on or before April 15 of the taxable year, the estimated tax shall be paid in four (4) equal installments. The first installment shall be paid at the time of the filing of the declaration, the second and third on June 15 and September 15, respectively, of the taxable year, and the fourth on January 15 of the succeeding taxable year;

(b) If the declaration is filed after April 15 and not after June 15 of the taxable year and is not required by subsection (3) of KRS 141.300 to be filed on or before April 15 of the taxable year, the estimated tax shall be paid in three (3) equal installments. The first installment shall be paid at the time of the filing of

the declaration, the second on September 15 of the taxable year, and the third on January 15 of the succeeding taxable year;

(c) If the declaration is filed after June 15 and not after September 15 of the taxable year and is not required by subsection (3) of KRS 141.300 to be filed on or before June 15 of the taxable year, the estimated tax shall be paid in two (2) equal installments. The first installment shall be paid at the time of the filing of the declaration and the second on January 15 of the succeeding taxable year;

(d) If the declaration is filed after September 15 of the taxable year, and is not required by subsection (3) of KRS 141.300 to be filed on or before September 15 of the taxable year, the declaration shall be filed and estimated tax shall be paid on or before January 15 of the succeeding taxable year;

(e) If the declaration is filed after the time prescribed in KRS 141.300, including cases where extensions of time have been granted, paragraphs (b), (c), and (d) of this subsection shall not apply, and there shall be paid at the time of such filing all installments of estimated tax which would have been payable on or before such time if the declaration has been filed within the time prescribed in subsection (3) of KRS 141.300, and the remaining installments shall be paid at the times at which, and in the amounts in which, they would have been payable if the declaration had been so filed. Provided, that payments required under this section for purposes of the taxable year 1954 shall be limited to fifty percent (50%) of the total estimated tax for 1954.

(2) If any amendment of a declaration is filed, the remaining installments, if any, shall be ratably increased or decreased as the case may be, to reflect the respective increase or decrease in the estimated tax by reason of such amendment, and if any amendment is made after September 15 of the taxable year any increase in the estimated tax by reasons thereof shall be paid at the time of making such amendment.

(3) At the election of the individual, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

(4) Payment of the estimated tax, or any installment thereof, shall be considered payment on account of the tax for the taxable year. Assessment in respect of the estimated tax shall be limited to the amount paid.

(5) In the case of an individual whose estimated gross income from farming for the taxable year is at least two-thirds (2/3) of the total estimated gross income from all sources for the taxable year, in lieu of the time prescribed in subsection (3) of KRS 141.300, the declaration for the taxable year may be made at any time on or before January 15 of the succeeding taxable year; and if such an individual files a return on or before March 1 of the succeeding taxable year, and pays in full the amount computed on the return as payable, such return shall have the same effect as that prescribed in subsection (5) of KRS 141.300 in the case of a return filed on or before January 31.

(6) The application of this section and KRS 141.300 to taxable years of less than twelve (12) months shall be as prescribed in administrative regulations promulgated by the *department*~~[cabinet]~~.

(7) In the application of this section and KRS 141.300 to taxpayers reporting income on a fiscal year basis, there shall be substituted for the date specified therein, the months corresponding thereto.

Section 495. KRS 141.310 is amended to read as follows:

(1) Every employer making payment of wages on or after January 1, 1971, shall deduct and withhold upon the wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.

(2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which the wages are paid.

(3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of wages by the employer during the calendar year, or the date of commencement of employment with the employer during the year, or January 1 of the year, whichever is the later.

(4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.

(5) The tables mentioned in subsection (1) of this section take into consideration the deductible federal income tax. If Congress changes substantially the federal income tax, the *department*~~[cabinet]~~ shall make the change in these tables necessary to compensate for any increase or decrease in the deductible federal income tax.

(6) The *department*~~[cabinet]~~ may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation so permitted produces substantially the same result set forth in the tables authorized by KRS 141.370. Prior approval of the calculation shall be secured from the *department*~~[cabinet]~~ at least thirty (30) days before the first payroll period for which it is to be used.

(7) The *department*~~[cabinet]~~ may, by regulations, authorize employers:

(a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;

(b) To determine the amount to be deducted and withheld upon each payment of wages to the employee during the quarter as if the appropriate average of the wages estimated constituted the actual wages paid; and

(c) To deduct and withhold upon any payment of wages to the employee during the quarter the amount necessary to adjust the amount actually deducted and withheld upon the wages of the employee during the quarter to the amount that would be required to be deducted and withheld during the quarter if the payroll period of the employee was quarterly.

(8) The *department*~~[cabinet]~~ may provide by regulation, under the conditions and to the extent it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employee agree to the additional withholding. The additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.

(9) Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.24-110 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee or the Commonwealth's contribution of KRS 154.24-110(3) applies. If the provisions in KRS 154.24-150(3) or (4) apply, the offset, the offset shall be one hundred percent (100%) of the assessment.

(10) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees an assessment provided in KRS 154.22-070 or KRS 154.28-110 may offset the fee against the Kentucky income tax required to be withheld from the employee under this section.

(11) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.26-100 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee, or if the agreement under KRS 154.26-090(1)(f)2. is consummated, the offset shall be one hundred percent (100%) of the assessment fee.

(12) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job development assessment fee provided in KRS 154.23-055 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be equal to the Commonwealth's contribution as determined by KRS 154.23-055(1) to (3).

(13) Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the *department*~~[cabinet]~~. The bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the *department*~~[cabinet]~~, but shall not exceed fifty thousand dollars ($50,000).

(14) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of an employer's business until the bond is posted or the tax required to be withheld is paid or both. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the defendant.

Section 496. KRS 141.315 is amended to read as follows:

If payment of wages is made to an employee by an employer:

(1) With respect to a payroll period or other period, any part of which is included in a payroll period or other period with respect to which wages are also paid to such employee by such employer, or

(2) Without regard to any payroll period or other period, but on or prior to the expiration of a payroll period or other period with respect to which wages are also paid to such employee by such employer; or

(3) With respect to a period beginning in one (1) and ending in another calendar year; or

(4) Through an agent, fiduciary, or other person who also has the control, receipt, custody, or disposal of, or pays, the wages payable by another employer to such employee, the manner of withholding and the amount to be deducted and withheld under KRS 141.310 shall be determined in accordance with regulations promulgated by the *department*~~[cabinet]~~ under which the withholding exemption allowed to the employee in any calendar year shall approximate the withholding exemption allowable with respect to an annual payroll period.

Section 497. KRS 141.325 is amended to read as follows:

(1) An employee receiving wages shall on any day be entitled to the following withholding exemptions:

(a) One (1) exemption for himself;

(b) One (1) exemption for each dependent for whom he would be entitled to a tax credit under the provisions of KRS 141.020(3)(c);

(c) If the employee is married, the exemption to which his spouse is entitled, or would be entitled if such spouse were an employee, under subparagraph (a) of this subsection, but only if such spouse does not have in effect a withholding exemption certificate claiming such exemption;

(d) Such other withholding exemptions as the *department*~~[cabinet]~~ may prescribe by regulation.

(2) Every employee shall, on or before July 1, 1954, or before the date of commencement of employment, whichever is later, furnish his employer with a signed withholding exemption certificate relating to the number of withholding exemptions which he claims, which in no event shall exceed the number to which he is entitled.

(3) Withholding exemption certificates shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished; provided, that certificates furnished before July 1, 1954, shall be considered as furnished on that date.

(4) A withholding exemption certificate which takes effect under this section shall continue in effect with respect to the employer until another such certificate takes effect under this section. If a withholding exemption certificate is furnished to take the place of an existing certificate, the employer, at his option, may continue the old certificate in force with respect to all wages paid on or before the first status determination date, January 1 or July 1, which occurs at least thirty (30) days after the date on which such new certificate is furnished.

(5) If, on any day during the calendar year, the number of withholding exemptions to which the employee may reasonably be expected to be entitled at the beginning of his next taxable year is different from the number to which the employee is entitled on such day, the employee shall in such cases and at such time as the *department*~~[cabinet]~~ may prescribe, furnish the employer with a withholding exemption certificate relating to the number of exemptions which he claims with respect to such next taxable year, which shall in no event exceed the number to which he may reasonably be expected to be so entitled. Exemption certificates issued pursuant to this subsection shall not take effect with respect to any payment of wages made in the calendar year in which the certificate is furnished.

(6) If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is less than the number of withholding exemptions claimed by the employee on the withholding exemption certificate then in effect with respect to him, the employee shall, within ten (10) days thereafter, furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day. If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is greater than the number of withholding exemptions claimed, the employee may furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day.

(7) Withholding exemption certificates shall be in such form and contain such information as the *department*~~[cabinet]~~ may by regulations prescribe.

Section 498. KRS 141.330 is amended to read as follows:

(1) Every employer required to deduct and withhold tax under KRS 141.310 and 141.315 shall, for the quarterly period beginning on the first day of January of each year, and for each quarterly period thereafter, on or before the last day of the month following the close of each quarterly period make a return and report to the *department*~~[cabinet]~~ the tax required to be withheld under KRS 141.310 and 141.315, unless the employer is permitted or required to report monthly or annually. Such employer shall, on or before the last day of the month following the close of each quarterly period, pay over to the *department*~~[cabinet]~~ the tax required to be withheld under KRS 141.310 and 141.315; Provided, however, That the *department*~~[cabinet]~~ may, by regulations, require employers to remit the tax withheld under KRS 141.310 and 141.315 within a reasonable time after the payroll period or other period. A return shall be filed by every employer making payment of wages even though no tax has been withheld.

(2) If the *department*~~[cabinet]~~, in any case, has reason to believe that the collection of the tax provided for in subsection (1) of this section is in jeopardy, it may require the employer to make such return and pay such tax at any time.

(3) Every employer, who fails to withhold or pay to the *department*~~[cabinet]~~ any sums required by this chapter to be withheld and paid, shall be personally and individually liable therefor to the Commonwealth; and any sum or sums withheld in accordance with the provisions of KRS 141.310 and 141.315 shall be deemed to be held in trust for the Commonwealth.

(4) The Commonwealth shall have a lien upon all the property of any employer who fails to withhold or pay over to the *department*~~[cabinet]~~ sums required to be withheld under KRS 141.310 and 141.315. If the employer withholds but fails to pay the amounts withheld to the *department*~~[cabinet]~~, the lien shall accrue as of the date the amounts withheld were required to be paid to the *department*~~[cabinet]~~. If the employer fails to withhold, the lien shall accrue at the time the liability of the employer becomes fixed.

Section 499. KRS 141.335 is amended to read as follows:

(1) Every person required to deduct and withhold from an employee a tax under KRS 141.310 or 141.315, or who would have been required to deduct and withhold a tax under KRS 141.310 or 141.315 if the employee had claimed no more than one (1) withholding exemption, shall furnish to each such employee in respect of the remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of remuneration is made, a written statement showing the following:

(a) the name of such person;

(b) the name of the employee and his social security account number;

(c) the total amount of wages as defined in KRS 141.010; and

(d) the total amount deducted and withheld as tax under KRS 141.310 and 141.315.

(2) The statement required to be furnished by this section in respect of any wages shall be furnished at such other times, shall contain such other information, and shall be in such form as the *department*~~[cabinet]~~ may by regulations prescribe. A duplicate of such statement if made and filed in accordance with regulations prescribed by the *department*~~[cabinet]~~ shall constitute the return required to be made in respect of such wages under KRS 141.150.

(3) The *department*~~[cabinet]~~ may promulgate regulations providing for reasonable extensions of time, not in excess of thirty (30) days, to employers required to furnish statements under this section.

Section 500. KRS 141.345 is amended to read as follows:

(1) Where there has been an overpayment of tax under KRS 141.310 or 141.315, refund or credit shall be made to the employer only to the extent that the amount of such overpayment was not deducted and withheld under KRS 141.310 or 141.315 by the employer.

(2) Unless written application for refund or credit is received by the *department*~~[cabinet]~~ from the employer within four (4) years from the date the overpayment was made, no refund or credit shall be allowed.

Section 501. KRS 141.347 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.22-010;

(b) "Economic development project" shall have the same meaning as set forth in KRS 154.22-010;

(c) "Tax credit" means the "tax credit" allowed in KRS 154.22-010 to 154.22-070.

(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 a 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 an economic development project; and

(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 an economic development project.

(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 KRS 154.22-050.

(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 an economic development 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 KRS 154.22-050.

(d) If the tax computed in this section exceeds the credit, the excess 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 economic development 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 this chapter directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development 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 this chapter directly attributable to the facility, and the net income attributable to the economic development 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 economic development project by a formula approved by the *Department of* Revenue~~[Cabinet]~~.

(8) If an approved company can show to the satisfaction of the *Department of* 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 economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the *Department of* Revenue~~[Cabinet]~~.

(9) The *Department of* Revenue~~[Cabinet]~~ may issue administrative regulations and require the filing of forms designed by the *Department of* Revenue~~[Cabinet]~~ to reflect the intent of KRS 154.22-020 to 154.22-070 and the allowable income tax credit which an approved company may retain under KRS 154.22-020 to 154.22-070.

Section 502. KRS 141.370 is amended to read as follows:

The tax levied under KRS 141.020 and required to be withheld under KRS 141.310, unless determined by KRS 141.315, shall be withheld in accordance with the tables provided in regulations promulgated by the *department*~~[cabinet]~~.

Section 503. KRS 141.380 is amended to read as follows:

(1) There shall be allowed as a credit against the taxes imposed by KRS 141.020 and 141.040 an amount equal to fifteen percent (15%) of the expenditures, including installation cost, but excluding any finance charges, for qualifying energy property installed on premises in Kentucky which are owned or controlled by the taxpayer. The maximum credit which may be claimed by any taxpayer shall be fifteen hundred dollars ($1,500) during the period specified in subsection (13) of this section. A system or component or piece of equipment shall not be eligible more than once for the credit provided in this section.

(2) The credit in this section may be claimed for the taxable year in which the installation is completed. The credit may be claimed only for expenditures made during the taxable year for which the credit is claimed or during the immediately preceding taxable year, but not for expenditures made before January 1, 1983.

(3) In the case of a husband and wife who file separate returns, the credit may be taken by either, or divided equally, but the combined credit shall not exceed fifteen hundred dollars ($1,500).

(4) In the case of a partnership, of which one (1) or more of the partners are liable for the tax imposed under KRS 141.020, the amount of the credit each partner may claim shall be allocated in the same ratio as profits and losses are shared in the partnership, but the combined credit shall not exceed fifteen hundred dollars ($1,500).

(5) A builder who installs qualifying energy property in a building constructed for resale may elect himself to claim the credit allowed in this section, or may provide the purchaser with necessary documentation or certification so that the purchaser may claim the credit. The credit shall not be claimed by both the builder and the purchaser.

(6) In the case where the credit allowed in this section exceeds the tax due for the taxable year, that portion of the credit which exceeds the tax due may be carried over to the succeeding taxable years until the allowable credit has been fully exhausted, or until the credit has been claimed for three (3) successive years, whichever comes first.

(7) This tax credit shall not apply to trusts or estates.

(8) Before any tax credit can be claimed under the provisions of this section, the Natural Resources and Environmental Protection Cabinet must certify that the taxpayer's system is a viable system for using solar, wind or geothermal energy and documentation must be provided that the system has been completely installed. Any fee charged by the *Natural Resources and Environmental Protection* Cabinet for review and certification of a system shall not exceed ten dollars ($10).

(9) The Natural Resources and Environmental Protection Cabinet may promulgate such rules and regulations as necessary to maintain commonly accepted energy equipment standards, to effectively conform to the definition of qualifying energy property in KRS 141.375 and to administer the certification requirements in this section. The regulations, including those describing the application procedure, shall be written in nontechnical language understandable to lay citizens untrained in engineering, architecture, or other technical fields.

(10) With the exception of the certification requirements delegated to the Natural Resources and Environmental Protection Cabinet by this section, the *Department of* Revenue~~[Cabinet]~~ may promulgate such rules and regulations as necessary to effectively administer the requirements of KRS 141.375 and this section.

(11) All regulations necessary to implement KRS 141.375 and this section shall be filed with the Legislative Research Commission in accordance with KRS Chapter 13A by September 1, 1984.

(12) The *Department of* Revenue~~[Cabinet]~~ shall report as to the impact of KRS 141.375 and this section to the 1986 General Assembly and to the appropriate interim committee preceding the 1986 General Assembly. The report shall include the number and amount of the qualifying energy credits claimed, an estimate of the distribution by income group, the net revenue gain or loss to the Commonwealth attributable to the credits, and such other information as the *Department of* Revenue~~[Cabinet]~~ deems pertinent to an analysis of KRS 141.375 and this section.

(13) The provisions of KRS 141.375 and this section shall apply to the taxable years beginning on or after January 1, 1984, and ending on or before December 31, 1986, and no credit shall be allowed for any taxable year ending after December 31, 1986.

Section 504. KRS 141.390 is amended to read as follows:

(1) As used in this section:

(a) "Postconsumer waste" means any product generated by a business or consumer which has served its intended end use, and which has been separated from solid waste for the purposes of collection, recycling, composting, and disposition and which does not include secondary waste material or demolition waste;

(b) "Recycling equipment" means any machinery or apparatus used exclusively to process postconsumer waste material and manufacturing machinery used exclusively to produce finished products composed of substantial postconsumer waste materials; and

(c) "Composting equipment" means equipment used in a process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in a environmentally acceptable manner.

(2) A taxpayer who purchases recycling or composting equipment to be used exclusively within this state for recycling or composting postconsumer waste materials shall be entitled to a credit against the income taxes imposed pursuant to this chapter, in an amount equal to fifty percent (50%) of the installed cost of the recycling or composting equipment. The amount of credit claimed in the tax year during which the recycling equipment is purchased shall not exceed ten percent (10%) of the amount of the total credit allowable and shall not exceed twenty-five percent (25%) of the total of each tax liability which would be otherwise due.

(3) Application for a tax credit shall be made to the *Department of* Revenue~~[Cabinet]~~ on or before July 1 of the year following the calendar year in which the recycling or composting equipment is purchased. The application shall include a description of each item of recycling equipment purchased, the date of purchase and the installed cost of the recycling equipment, a statement of where the recycling equipment is to be used, and any other information as the *Department of* Revenue~~[Cabinet]~~ may require. The *Department of* Revenue~~[Cabinet]~~ shall review all applications received to determine whether expenditures for which credits are required meet the requirements of this section and shall advise the taxpayer of the amount of credit for which the taxpayer is eligible under this section.

Section 505. KRS 141.400 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.28-010;

(b) "Economic development project" shall have the same meaning as set forth in KRS 154.28-010; and

(c) "Tax credit" means the "tax credit" allowed in KRS 154.28-090.

(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 a 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 an economic development 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 an economic development 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 KRS 154.28-090.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, registered limited liability partnership, trust, or limited liability company treated as a partnership for federal income tax purposes shall be subject to income tax on the net income attributable to an economic development 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 KRS 154.28-090.

(d) If the tax computed in this section exceeds the credit, the excess 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 economic development 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 this chapter directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development 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 this chapter directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development 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 economic development project by a formula approved by the *Department of* Revenue~~[Cabinet]~~.

(8) If an approved company can show to the satisfaction of the *Department of* 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 economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the *Department of* Revenue~~[Cabinet]~~.

(9) The *Department of* Revenue~~[Cabinet]~~ may issue administrative regulations and require the filing of forms designed by the *Department of* Revenue~~[Cabinet]~~ to reflect the intent of KRS 154.22-020 to 154.22-070 and KRS 154.28-010 to 154.28-090 and this section and the allowable income tax credit which an approved company may retain under KRS 154.22-020 to 154.22-070 and KRS 154.28-010 to 154.28-090 and this section.

Section 506. KRS 141.401 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.23-010;

(b) "Economic development project" shall have the same meaning as set forth in KRS 154.23-010; and

(c) "Tax credit" means the "tax credit" allowed under KRS 154.23-005 to 154.23-079.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company that is an individual sole proprietorship subject to tax under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or a 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 an economic development project; and

(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 an economic development project.

(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 KRS 154.23-005 to 154.23-079.

(4) Notwithstanding any other provisions of this chapter, an approved company that 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 an economic development project at the rates provided in KRS 141.020(2), as follows:

(a) 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 in 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.

(b) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.23-005 to 154.23-079.

(c) If the tax computed in this section exceeds the credit, the excess 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.

(d) 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 beneficiary's distributive share of net income or credit of an S-corporation, partnership, registered limited liability partnership, limited liability company, or trust.

(6) If the economic development 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 this chapter directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development 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 this chapter directly attributable to the facility, and the net income attributable to the economic development 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 economic development project by a formula approved by the *Department of* Revenue~~[Cabinet]~~.

(8) If an approved company can show to the satisfaction of the *Department of* 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 economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the *Department of* Revenue~~[Cabinet]~~.

(9) The *Department of* Revenue~~[Cabinet]~~ may issue administrative regulations and require the filing of forms designed by the *Department of* Revenue~~[Cabinet]~~ to reflect the intent of KRS 154.23-005 to 154.23-079 and the allowable income tax credit that an approved company may retain under KRS 154.23-005 to 154.23-079.

Section 507. KRS 141.403 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.26-010;

(b) "Economic revitalization project" shall have the same meaning as set forth in KRS 154.26-010;

(c) "Tax credit" means the tax credit allowed in KRS 154.26-090.

(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 a 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 an economic revitalization 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 an economic revitalization 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 KRS 154.26-090.

(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 an economic revitalization 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 KRS 154.26-090.

(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 economic development 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 economic development 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 economic development 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 economic development project by a formula approved by the *Department of* Revenue~~[Cabinet]~~.

(8) If an approved company can show to the satisfaction of the *Department of* 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 economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the *Department of* Revenue~~[Cabinet]~~.

(9) The *Department of* Revenue~~[Cabinet]~~ may issue administrative regulations and require the filing of forms designed by the *Department of* Revenue~~[Cabinet]~~ to reflect the intent of KRS 154.26-010 to 154.26-100 and the allowable income tax credit which an approved company may retain under KRS 154.26-010 to 154.26-100.

Section 508. KRS 141.405 is amended 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 KRS 154.12-2084; and

(b) "Skills training investment credit" has the same meaning as set forth in KRS 154.12-2084.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) (a) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall 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);

(b) The amount of the skills training investment credit that the Bluegrass State Skills Corporation has given final approval for under KRS 154.12-2088(6) shall be applied against the amount of the tax computed under paragraph (a) of this subsection; and

(c) The skills training investment credit payment shall not exceed the amount of the final approval awarded by the Bluegrass State Skills Corporation under KRS 154.12-2088(6).

(4) (a) In the case of an approved company which is an S-corporation or partnership the amount of the tax credit awarded by the Bluegrass State Skills Corporation in KRS 154.12-2088(6) shall be apportioned among the shareholders or partners thereof at the same ratio as the shareholders' or partners' distributive shares of income are determined for the tax year during which the final authorization resolution is adopted by the Bluegrass State Skills Corporation in KRS 154.12-2088(6).

(b) The amount of the tax credit apportioned to each shareholder or partner that may be claimed in any tax year of the shareholder or partner shall be determined in accordance with the provisions of KRS 154.12-2086.

(5) (a) In the case of an approved company that is a trust, the amount of the tax credit awarded by the Bluegrass State Skills Corporation in KRS 154.12-2088(6) shall be apportioned to the trust and the beneficiaries on the basis of the income of the trust allocable to each for the tax year during which the final authorizing resolution is adopted by the Bluegrass State Skills Corporation in KRS 154.12-2088(6).

(b) The amount of tax credit apportioned to each trust or beneficiary that may be claimed in any tax year of the trust or beneficiary shall be determined in accordance with the provisions of KRS 154.12-2086.

(6) The *Department of* Revenue~~[Cabinet]~~ may promulgate administrative regulations in accordance with KRS Chapter 13A adopting forms and procedures for the reporting of the credit allowed in KRS 154.12-2084 to 154.12-2089.

Section 509. KRS 141.407 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.24-010;

(b) "Economic development project" shall have the same meaning as economic development project as set forth in KRS 154.24-010;

(c) "Tax credit" means the tax credit allowed in KRS 154.24-020 to 154.24-150.

(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 a 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 an economic development 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 an economic development 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 KRS 154.24-020 to 154.24-150.

(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 an economic development 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 KRS 154.24-020 to 154.24-150.

(d) If the tax computed herein exceeds the credit, the excess 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, 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 economic development 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 economic development 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 economic development 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 economic development project by a formula approved by the *Department of* Revenue~~[Cabinet]~~.

(8) If an approved company can show to the satisfaction of the *Department of* 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 economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the *Department of* Revenue~~[Cabinet]~~.

(9) The *Department of* Revenue~~[Cabinet]~~ may promulgate administrative regulations and require the filing of forms designed by the *Department of* Revenue~~[Cabinet]~~ to reflect the intent of KRS 154.24-010 to 154.24-150 and the allowable income tax credit which an approved company may retain under KRS 154.24-010 to 154.24-150.

Section 510. KRS 141.414 is amended to read as follows:

(1) A qualified farming operation which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) 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 the qualified farming operation's participation in a networking 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 the qualified farming operation's participation in a networking project; and

(c) Be entitled to a tax credit in the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection. The credit shall not exceed the farming operation's approved costs, as defined in KRS 141.410.

(2) Notwithstanding any other provisions of this chapter, a qualified farming operation which is an S-corporation, partnership, or trust shall be subject to income tax on the net income attributable to its participation in a networking project at the rates provided in KRS 141.020(2), and the amount of the tax credit shall be the same as the amount of the tax computed in this subsection. The credit shall not exceed the farming operation's approved costs, as defined in KRS 141.410. If the tax computed in this subsection exceeds the tax credit, the difference shall be paid by the S-corporation, partnership, or trust at the times provided by KRS 141.160 for filing the returns.

(3) Notwithstanding any other provisions of this chapter, the net income subject to tax and the tax credit determined under subsection (2) of this section shall be excluded in determining each shareholder's, partner's, or beneficiary's distributive share of net income or credit of an S-corporation, partnership, or trust.

(4) If the networking entity is a separate facility, net income attributable to the project for the purposes of subsections (1), (2), and (3) 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 project and overhead expenses apportioned to the project.

(5) If the networking project is an expansion to a previously existing farming operation, net income attributable to the entire operation shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the farming operation's participation in the networking project and overhead expenses apportioned to the networking project, and the net income attributable to the networking project for the purposes of subsections (1), (2), and (3) of this section shall be determined by apportioning the separate accounting net income of the entire networking project to the networking project by a formula approved by the *Department of* Revenue~~[Cabinet]~~.

(6) If an approved company can show to the satisfaction of the *Department of* Revenue~~[Cabinet]~~ that the nature of the operations and activities of the approved farming operation are such that it is not practical to use the separate accounting method to determine the net income from the networking project, the approved farming operation shall determine net income from its participation in the networking project using an alternative method approved by the *Department of* Revenue~~[Cabinet]~~.

(7) The *Department of* Revenue~~[Cabinet]~~ may promulgate administrative regulations pursuant to KRS Chapter 13A and require the filing of forms designed by the *Department of* Revenue~~[Cabinet]~~ necessary to effectuate KRS 141.0101 and KRS 141.410 to 141.414 and the allowable income tax credit which an approved farming operation may retain under the provisions of KRS 141.412 and this section.

Section 511. KRS 141.415 is amended 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 KRS 154.34-010;

(b) "Reinvestment project" has the same meaning as set forth in KRS 154.34-010; and

(c) "Tax credit" means the tax credit allowed in KRS 154.34-080.

(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 KRS 154.34-080.

(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 KRS 154.34-080.

(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 beneficiary's 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 *Department of* Revenue~~[Cabinet]~~.

(8) If an approved company can show to the satisfaction of the *Department of* 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 *Department of* Revenue~~[Cabinet]~~.

(9) The *Department of* Revenue~~[Cabinet]~~ may issue administrative regulations and require the filing of forms designed by the *Department of* Revenue~~[Cabinet]~~ to reflect the intent of KRS 154.34-010 to 154.34-100 and the allowable income tax credit which an approved company may retain under KRS 154.34-010 to 154.34-100.

Section 512. KRS 141.416 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" means a company approved under KRS 154.34-010 to KRS 154.34-100 and subject to license tax under KRS 136.070;

(b) "Reinvestment project" has the same meaning as set forth in KRS 154.34-010; and

(c) "Tax credit" means the tax credit allowed in KRS 154.34-080.

(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 KRS 154.34-080.

(3) The license tax attributable to a reinvestment project shall be determined by a formula approved by the *Department of* Revenue~~[Cabinet]~~.

(4) The *Department of* Revenue~~[Cabinet]~~ may promulgate administrative regulations and require the filing of forms designed by the *Department of* Revenue~~[Cabinet]~~ to reflect the intent of KRS 154.34-010 to 154.34-100 and the allowable tax credit which an approved company may retain under KRS 154.34-010 to 154.34-100.

Section 513. KRS 141.442 is amended to read as follows:

(1) Effective for the tax year beginning January 1, 1990, and for each tax year thereafter, any individual who is entitled to a tax refund sufficient to make a designation under this section may designate an amount, not to exceed the amount of the refund, to be paid to the Bluegrass State Games and United States Olympic Committee fund. In the case of a joint return, each spouse may designate that a portion of the refund shall be paid to the fund. Such designation shall not increase or decrease the income tax liability of any taxpayer, but it shall reduce the income tax refund of such taxpayer or spouse by the amount or amounts designated.

(2) The tax designation authorized in this section shall be clearly and unambiguously printed on the state individual income tax return.

(3) The *commissioner of the Department of Revenue*~~[secretary of revenue]~~ shall certify by December 1, 1990, and by December 1 of each year thereafter, all such designated amounts to be paid by the State Treasurer. The Treasurer shall remit by January 1, 1991, and by January 1 of each year thereafter, on an equal share basis, all moneys paid into the fund during the preceding tax year, to the appropriate officials designated by the governing bodies of the Bluegrass State Games and the United States Olympic Committee, respectively.

(4) If the governing body of either the Bluegrass State Games or the United States Olympic Committee ceases to exist and function in this state, then any funds to be made available to such governing body, pursuant to subsection (3) of this section, shall be paid over to the governing body representing the remaining organization.

Section 514. KRS 141.460 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~ shall print on the face of the Kentucky individual income tax form a space for a taxpayer to designate that a contribution be made to the Kentucky Nature and Wildlife Fund from

that taxpayer's income tax refund. The space for designating the contribution shall be in substantially the following form:

KENTUCKY NATURE AND WILDLIFE FUND. I wish to contribute

$2-----$5-----$10----- $-----

of my TAX REFUND TO THE KENTUCKY NATURE AND WILDLIFE FUND.

(2) The *Department of* Revenue~~[Cabinet]~~ shall print in the instructions accompanying the individual income tax form a description of the purposes for which the Kentucky Nature and Wildlife Fund was established and the use of moneys from the income tax check-off.

Section 515. KRS 141.465 is amended to read as follows:

The *commissioner*~~[secretary]~~ of the *Department of* Revenue~~[Cabinet]~~ shall transfer fifty percent (50%) of the funds designated in KRS 141.460 to the nongame fish and wildlife fund created by KRS 150.165 and fifty percent (50%) to the Kentucky nature preserves fund created by KRS 146.520 and shall reduce the amount of the income tax refund by the amount designated. Moneys in each fund shall be placed in an interest-bearing account.

Section 516. KRS 141.475 is amended to read as follows:

The *Department of* Revenue~~[Cabinet]~~ shall promulgate such rules and regulations as may be necessary to effectively administer the provisions of KRS 141.455 to 141.470.

Section 517. KRS 141.985 is amended to read as follows:

If the tax imposed by this chapter, whether assessed by the *department*~~[cabinet]~~, or the taxpayer, or any installment or portion of the tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made to the *department*~~[cabinet]~~. Interest shall be assessed, collected, and paid in the same manner as if it were a deficiency.

Section 518. KRS 141.990 is amended to read as follows:

(1) Any individual, fiduciary, corporation, employer, or other person who violates any of the provisions of this chapter shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.

(2) Any individual required by KRS 141.300 to file a declaration of estimated tax and required by KRS 141.305 to pay the declaration of estimated tax shall be subject to a penalty as provided in KRS 131.180 for any declaration underpayment or any late payment. Underpayment, for purposes of this subsection, is determined by subtracting declaration credits allowed by KRS 141.070, declaration installment payments actually made, and credit for tax withheld as allowed by KRS 141.350 from seventy percent (70%) of the total income tax liability computed by the taxpayer as shown on the return filed for the tax year. This subsection shall not apply to the tax year in which the death of the taxpayer occurs, nor in the case of a farmer exercising an election under subsection (5) of KRS 141.305, nor in the case of any person having a tax liability of two hundred dollars ($200) or less.

(3) Any corporation required by KRS 141.042 to file a declaration of estimated tax and required to pay the declaration of estimated tax by the installment method prescribed by subsection (1) of KRS 141.044 shall be subject to a penalty as provided in KRS 131.180 for any declaration underpayment or any installment not paid on time. Declaration underpayment, for purposes of this subsection, is determined by subtracting five thousand dollars ($5,000) and declaration payments actually made from seventy percent (70%) of the total income tax liability computed by the taxpayer on the return filed for the tax year.

(4) Every tax imposed by this chapter, and all increases, interest, and penalties thereon, shall become, from the time it is due and payable, a personal debt to the state from the taxpayer or other person liable therefor.

(5) In addition to the penalties herein prescribed, any taxpayer 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 D felony.

(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 this chapter 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 such return, affidavit, claim, or document, shall be guilty of a Class D felony.

(7) A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by the *department*~~[cabinet]~~ and required to be filed with the *department*~~[cabinet]~~ by the provisions of this chapter, or by the rules and regulations of the *department*~~[cabinet]~~ or by written request for information to the taxpayer by the *department*~~[cabinet]~~.

Section 519. KRS 142.010 is amended to read as follows:

(1) The following taxes shall be paid:

(a) A tax of three dollars and fifty cents ($3.50) on each marriage license;

(b) A tax of three dollars ($3) on each power of attorney to convey real or personal property;

(c) A tax of three dollars ($3) on each mortgage, financing statement, or security agreement and on each notation of a security interest on a certificate of title under KRS 186A.190;

(d) A tax of three dollars ($3) on each conveyance of real property; and

(e) A tax of three dollars ($3) on each lien or conveyance of coal, oil, gas, or other mineral right or privilege.

(2) The tax imposed by this section shall be collected by each county clerk as a prerequisite to the issuance of a marriage license or the original filing of an instrument subject to the tax. Subsequent assignment of the original instrument shall not be cause for additional taxation under this section. This section shall not be construed to require any tax upon a deed of release of a lien retained in a deed or mortgage.

(3) Taxes imposed under this section shall be reported and paid to the *Department of* Revenue~~[Cabinet]~~ by each county clerk within ten (10) days following the end of the calendar month in which instruments subject to tax are filed or marriage licenses issued. Each remittance shall be accompanied by a summary report on a form prescribed by the *department*~~[cabinet]~~.

(4) Any county clerk who violates any of the provisions of this section shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180. In every case, any tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

Section 520. KRS 142.015 is amended to read as follows:

The county clerk, in each county, shall be allowed five percent (5%) commission on the amounts collected for state taxes on legal processes and instruments provided for under KRS 142.010, said five percent (5%) commission to be retained by the county clerk on said sums reported to the *Department of* Revenue~~[Cabinet]~~ and paid by the county clerk into the State Treasury.

Section 521. KRS 142.050 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Deed" means any document, instrument, or writing other than a will and other than a lease or easement, regardless of where made, executed, or delivered, by which any real property in Kentucky, or any interest therein, is conveyed, vested, granted, bargained, sold, transferred, or assigned.

(b) "Value" means:

1. In the case of any deed not a gift, the amount of the full actual consideration therefor, paid or to be paid, including the amount of any lien or liens thereon; and

2. In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated price the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

(2) A tax upon the grantor named in the deed shall be imposed at the rate of fifty cents ($0.50) for each $500 of value or fraction thereof, which value is declared in the deed upon the privilege of transferring title to real property.

(3) (a) If any deed evidencing a transfer of title subject to the tax herein imposed is offered for recordation, the county clerk shall ascertain and compute the amount of the tax due thereon and shall collect the amount as prerequisite to acceptance of the deed for recordation.

(b) The amount of tax shall be computed on the basis of the value of the transferred property as set forth in the deed.

(c) The tax required to be levied by this section shall be collected only once on each transaction and in the county in which the deed is required to be recorded by KRS 382.110(1).

(4) The county clerk shall collect the amount due and certify the date of payment and the amount of collection on the deed. The county clerk shall retain five percent (5%) as his fee for collection and remit the balance every three (3) months to the county treasurer, who shall deposit the money in the county general fund.

(5) The *Department of* Revenue~~[Cabinet]~~ may prescribe regulations necessary to carry out the purposes of this section.

(6) Any county clerk who willfully shall record any deed upon which a tax is imposed by this section without collecting the proper amount of tax and certifying the date and amount of collection on the deed as required by this section based on the declared value indicated in the affidavit appended to the deed shall, upon conviction, be fined $50 for each offense.

(7) The tax imposed by this section shall not apply to a transfer of title:

(a) Recorded prior to March 27, 1968;

(b) To, in the event of a deed of gift or deed with nominal consideration, or from the United States of America, this state, any city or county within this state, or any instrumentality, agency, or subdivision hereof;

(c) Solely in order to provide or release security for a debt or obligation;

(d) Which confirms or corrects a deed previously recorded;

(e) Between husband and wife, or between former spouses as part of a divorce proceeding;

(f) On sale for delinquent taxes or assessments;

(g) On partition;

(h) Pursuant to:

1. Merger or consolidation between and among corporations, partnerships, including registered limited liability partnerships, limited partnerships, or limited liability companies; or

2. The conversion of a general partnership, including a registered limited liability partnership, or a limited partnership into a limited liability company;

(i) Between a subsidiary corporation and its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of either corporation's stock;

(j) Under a foreclosure proceeding;

(k) Between a person and a corporation, general partnership, limited partnership, registered limited liability partnership, or limited liability company in an amount equal to the portion of the value of the real property transferred that represents the proportionate interest of the transferor of the property in the entity to which the property was transferred, if the transfer was for nominal consideration;

(l) Between parent and child or grandparent and grandchild, with only nominal consideration therefor;

(m) By a corporation, general partnership, limited partnership, registered limited liability partnership, or limited liability company to a person as owner or shareholder of the entity, upon dissolution of the entity, in an amount equal to the portion of the value of the real property transferred that represents the proportionate interest of the person to whom the property was transferred, if the transfer was for nominal consideration;

(n) Between a trustee and a successor trustee; and

(o) Between a limited liability company and any of its members.

(8) The tax imposed by subsection (2) of this section shall not apply to transfers to a trustee, to be held in trust, or from a trustee to a beneficiary of the trust if:

(a) The grantor is the sole beneficiary of the trust;

(b) The grantor is a beneficiary of the trust and a direct transfer from the grantor of the trust to all other individual beneficiaries of the trust would have qualified for an exemption from the tax pursuant to one (1) of the provisions of subsection (7) of this section; or

(c) A direct transfer from the grantor of the trust to all other individual beneficiaries of the trust would have qualified for an exemption from the tax pursuant to one (1) of the provisions of subsection (7) of this section.

(9) As used in this section, "trust" shall have the same definition as contained in KRS 386.800.

Section 522. KRS 142.301 is amended to read as follows:

As used in KRS 142.301 to 142.359:

(1) "*Department*~~[Cabinet]~~" means the *Department of* Revenue~~[Cabinet]~~;

(2) "Charitable provider" means any provider which does not charge its patients for health-care items or services, and which does not seek or accept Medicare, Medicaid, or other financial support from the federal government or any state government. The collaboration with public hospitals, agencies, or other providers in the delivery of patient care; affiliation with public institutions to provide health-care education; or the pursuit of research in cooperation with public institutions or agencies shall not be considered as the receipt of government support by a charitable provider;

(3) "Dispensing" means to deliver one (1) or more doses of a prescription drug in a suitable container, appropriately labeled for subsequent administration or use by a patient or other individual entitled to receive the prescription drug;

(4) "Entity" means any firm, partnership, joint venture, association, corporation, company, joint stock association, trust, business trust, syndicate, cooperative, or other group or combination acting as a unit;

(5) "Gross revenues" means the total amount received in money or otherwise by a provider for the provision of health-care items or services in Kentucky, less the following:

(a) Amounts received by any provider as an employee or independent contractor from another provider for the provision of health-care items or services if:

1. The employing or contracting provider receives revenue attributable to health-care items or services provided by the employee or independent contractor receiving payment; and

2. The employing or contracting provider is subject to the tax imposed by KRS 142.303, 142.307, 142.309, and 142.311 on the receipt of that revenue;

(b) Amounts received as a grant or donation by any provider from federal, state, or local government or from an organization recognized as exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code for:

1. Research; or

2. Administrative or operating costs associated with the implementation and operation of an experimental program;

(c) Salaries or wages received by an individual provider as an employee of a charitable provider, the federal government, or any state or local governmental entity;

(d) Salaries or wages received by an individual provider as an employee of a public university for the provision of services at a student health facility; and

(e) Amounts received by an HMO on a fixed, prepayment basis as premium payments.

(6) "Health-care items or services" means:

(a) Inpatient hospital services;

(b) Outpatient hospital services;

(c) Nursing-facility services;

(d) Services of intermediate-care facilities for the mentally retarded;

(e) Physicians' services provided prior to July 1, 1999;

(f) Licensed home-health-care-agency services;

(g) Outpatient prescription drugs; and

(h) HMO services;

(7) "Health-maintenance organization" or "HMO" means an organization established and operated pursuant to the provisions of Subtitle 38 of KRS Chapter 304;

(8) "Hospital" means an acute-care, rehabilitation, or psychiatric hospital licensed under KRS Chapter 216B;

(9) "Hospital services" means all inpatient and outpatient services provided by a hospital. "Hospital services" does not include services provided by a noncontracted, university-operated hospital, or any freestanding psychiatric hospital, if necessary waivers are obtained by the Cabinet for Human Resources from the Health Care Financing Administration, or hospitals operated by the federal government;

(10) "Health services secretary" means the secretary of the Cabinet for Health Services or that person's authorized representative;

(11) "Inpatient hospital services," "outpatient hospital services," "intermediate-care-facility services for the mentally retarded," "physician services," "licensed home-health-care-agency services," and "outpatient prescription drugs" have the same meaning as set forth in regulations promulgated by the Secretary of the Department of Health and Human Services and codified at 42 C.F.R. pt. 440, as in effect on December 31, 1993;

(12) "Medicaid" means the state program of medical assistance as administered by the Cabinet for Health Services in compliance with 42 U.S.C. sec. 1396;

(13) "Nursing-facility services" means services provided by a licensed skilled-care facility, nursing facility, nursing home, or intermediate-care facility, excluding intermediate-care facilities for the mentally retarded;

(14) "Person" means any individual, firm, partnership, joint venture, association, corporation, company, joint stock association, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit and the legal successor thereof;

(15) "Provider" means any person receiving gross revenues for the provision of health-care items or services in Kentucky, excluding any facility operated by the federal government; and

(16) "*Commissioner*~~[Secretary]~~" means the *commissioner*~~[secretary]~~ of the *Department of* Revenue~~[Cabinet]~~ or that person's authorized representative.

Section 523. KRS 142.317 is amended to read as follows:

Charitable providers as defined in KRS 142.301 shall be exempt from the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311, as well as the provisions of KRS 142.321, 142.333, 142.341, and 142.343 upon providing proper certification to the *department*~~[cabinet]~~.

Section 524. KRS 142.321 is amended to read as follows:

(1) Every provider subject to the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311 that is not registered with the *department*~~[cabinet]~~ pursuant to the provisions of KRS 142.221 shall, on July 15, 1994, file an application for a certificate of registration with the *department*~~[cabinet]~~. A certificate of registration filed in accordance with the provisions of KRS 142.221 shall remain valid for purposes of KRS 142.301 to 142.359. Every provider seeking to provide health care items or services in Kentucky for the first time after July 15, 1994, shall, prior to providing these items or services, file an application for a certificate of registration with the *department*~~[cabinet]~~. The application shall be in the form prescribed by the *department*~~[cabinet]~~. The application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.

(2) Every state board responsible for licensing or governing any provider subject to the tax imposed by KRS 142.303, 142.307, 142.309, and 142.311 shall, upon request by the *department*~~[cabinet]~~, provide any

information available to the licensing board necessary for the administration of the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311. The information shall be in the form required by the *department*~~[cabinet]~~ and shall be used by the *department*~~[cabinet]~~ for the sole purpose of administering the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311.

(3) Every state board responsible for licensing or governing any provider subject to the tax imposed by KRS 142.303, 142.307, 142.309, and 142.311 shall, upon request by the *department*~~[cabinet]~~, include the application for certificate of registration required by subsection (1) of this section with any new license issued. Application forms shall be provided by the *department*~~[cabinet]~~ to the licensing board.

Section 525. KRS 142.323 is amended to read as follows:

The taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311 are due and payable to the *department*~~[cabinet]~~ monthly and shall be remitted on or before the twentieth day of the next succeeding calendar month.

Section 526. KRS 142.327 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 *department*~~[cabinet]~~ in the form prescribed by the *department*~~[cabinet]~~, together with payment of any tax due.

(2) A return shall be filed by every provider. The return shall be signed by the person required to file the return or a duly-authorized agent.

(3) The return shall show the gross revenues of the provider during the preceding reporting period. The return shall also show the amount of taxes for the period covered by the return and other information as the *department*~~[cabinet]~~ deems necessary for the proper administration of KRS 142.301 to 142.359.

(4) The person required to file the return shall deliver the return, together with a remittance of the amount of the tax due, to the *department*~~[cabinet]~~.

(5) For the purpose of facilitating the administration, payment, or collection of the taxes levied by KRS 142.303, 142.307, 142.309, and 142.311, the *department*~~[cabinet]~~ may permit or require returns to be filed or tax payments to be made other than as specifically required by the provisions of this section, except the *department*~~[cabinet]~~ shall not require or permit returns or payments to be filed or remitted more frequently than monthly.

Section 527. KRS 142.331 is amended to read as follows:

(1) The *department*~~[cabinet]~~ shall, upon written request received on or prior to the due date of the return or tax, for good cause satisfactory to the *department*~~[cabinet]~~, extend the time for filing the return or paying the tax for a period not to exceed thirty (30) days.

(2) Any person for which the extension is granted shall pay, in addition to the tax, interest at the tax interest rate as defined in KRS 131.010(6) from the date on which the tax would otherwise have been due.

Section 528. KRS 142.333 is amended to read as follows:

(1) As soon as practicable after each return is received, the *department*~~[cabinet]~~ shall examine it. If the amount of tax computed by the *department*~~[cabinet]~~ is greater than the amount returned by the taxpayer, the excess shall be assessed by the *department*~~[cabinet]~~ within four (4) years from the later of the date the return was filed or due, except that in the case of a failure to file a return or a fraudulent return, the excess may be assessed at any time. A notice of assessment shall be mailed to the provider. The provider and the *department*~~[cabinet]~~ may agree to extend this time period.

(2) Any provider aggrieved by an action of the *department*~~[cabinet]~~ may request a review and shall have the rights of appeal as set forth in KRS Chapter 131.

(3) Notwithstanding the four (4) year time limitation set forth in subsection (1), in the case of a return where the provider understates gross revenues by twenty-five percent (25%) or more, the excess shall be assessed by the *department*~~[cabinet]~~ within six (6) years from the later of the date the return is due or filed.

Section 529. KRS 142.337 is amended to read as follows:

In making a determination of tax liability, the *department*~~[cabinet]~~ may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.

Section 530. KRS 142.341 is amended to read as follows:

(1) Every provider shall keep records, receipts, invoices, and other pertinent papers in the form as the *department*~~[cabinet]~~ may require.

(2) Every provider who files the returns required under KRS 142.323 shall keep records for not less than six (6) years from the making of records unless the *department*~~[cabinet]~~ in writing authorizes their destruction at an earlier date.

Section 531. KRS 142.347 is amended to read as follows:

(1) Except when the health services secretary has been granted specific authority in KRS 142.301 to 142.359, the *department*~~[cabinet]~~ shall administer the provisions of KRS 142.301 to 142.359, and shall have all of the powers, rights, duties, and authority with respect to the assessment, collection, refunding, and administration of the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311, conferred generally by the Kentucky Revised Statutes including KRS Chapters 131, 134, and 135.

(2) The Cabinet for Health Services shall be responsible for compliance with all federal reporting requirements regarding the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311.

(3) The Cabinet for Health Services shall fully cooperate with the *department*~~[cabinet]~~ and shall provide the *department*~~[cabinet]~~ with any information requested to carry out the provisions of KRS 142.301 to 142.359.

Section 532. KRS 142.351 is amended to read as follows:

(1) A report of revenue receipts from the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311 shall be provided on a quarterly basis by the *department*~~[cabinet]~~ to the health services secretary on or before the tenth day of the second month following the close of each fiscal quarter.

(2) It is the responsibility of each provider, subject to tax under KRS 142.303, 142.307, 142.309, and 142.311 to register with the *department*~~[cabinet]~~, and comply with the tax and reporting provisions of KRS 142.301 to 142.359.

Section 533. KRS 142.353 is amended to read as follows:

(1) Whenever it is deemed necessary to insure compliance with the provisions of KRS 142.301 to 142.359, the *department*~~[cabinet]~~ may require any person subject to the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311 to place security with it. The amount of the security shall be fixed by the *department*~~[cabinet]~~ but shall not be greater than three (3) times the estimated average liability of the provider or all providers in the same class as the provider, whichever is greater. This limitation shall apply regardless of the type of security placed with the *department*~~[cabinet]~~.

(2) The amount of the security may be increased or decreased by the *department*~~[cabinet]~~, subject to the limitations provided in subsection (1) of this section.

(3) (a) If necessary, the *department*~~[cabinet]~~ may sell the security at public auction in order to recover any tax, penalty, or interest due. However, security in the form of a bearer bond issued by the United States or any state or local governmental unit which has a prevailing market price may be sold by the *department*~~[cabinet]~~ at a private sale at a price not lower than the prevailing market price.

(b) 1. The *department*~~[cabinet]~~ shall provide notice by certified mail, sent to the last known address as reflected in the records of the *department*~~[cabinet]~~, or by delivery, to the person who placed the security with the *department*~~[cabinet]~~ of the date, time, and place of the sale.

2. Delivery means mailing the notice to the person it is addressed to, leaving the notice at his place of business with the person in charge of the place of business, or, if there is no one in charge, leaving the notice at a conspicuous place at the place of business. If the place of business is closed, or the person to be served has no place of business, leaving it at his home, with a person of suitable age and discretion residing in the home. Notice by certified mail must be postmarked no later than ten (10) days prior to the sale. Notice by delivery must be given no later than ten (10) days prior to the sale.

(c) Any amount in excess of the amount due the *department*~~[cabinet]~~ after the sale shall be returned to the person placing the security.

(4) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of a provider's business until the security is obtained. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction over the provider.

Section 534. KRS 143.010 is amended to read as follows:

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

(1) "*Department*~~[Cabinet]~~" means "*Department of* Revenue~~[Cabinet]~~."

(2) "Coal" means and includes any material composed predominantly of hydrocarbons in a solid state.

(3) "Severed," "severing," or "severance" means the physical removal of coal from the earth.

(4) "Ton" means a short ton of 2,000 pounds. The number of tons shall be determined at the first point at which the coal is weighed.

(5) "Taxpayer" shall mean and include any individual, partnership, joint venture, association, or corporation engaged in severing and/or processing coal in this state. In instances where contracts, either oral or written, are entered into by which persons, organizations, or businesses are engaged to mine or process the coal but do not obtain title to or do not have an economic interest therein, the party who owns the coal or has an economic interest shall be the taxpayer.

(6) "Gross value" is synonymous with gross income from property as defined in Section 613(c) of the Internal Revenue Code and regulations 1.613-3 and 1.613-4 in effect on December 31, 1977, with the exception that in all instances transportation expense, as defined in subsection (11) of this section, incurred in transporting coal shall not be considered as gross income from the property. Gross value shall be reported as follows:

(a) For coal severed and/or processed and sold during a reporting period, gross value shall be the amount received or receivable by the taxpayer.

(b) For coal severed and/or processed, but not sold during a reporting period, gross value shall be determined as follows:

1. If the coal is to be sold under the terms of an existing contract, the contract price shall be used in computing gross value.

2. If there is no existing contract, the fair market value for that grade and quality of coal shall be used in computing gross value.

(c) In a transaction involving related parties, gross value shall be the amount received or receivable from the first noncontrolled sale by the related parties. If coal is sold to a related party for consumption, gross value shall not be less than the fair market value for coal of similar grade and quality.

(d) In the absence of a sale, gross value shall be the fair market value for coal of similar grade and quality.

(e) If severed coal is purchased for the purpose of processing and resale, the gross value shall be the amount received or receivable during the reporting period reduced by the amount paid or payable to the registered taxpayer actually severing the coal.

(f) If severed coal is purchased for the purpose of processing and consumption, the gross value shall be the fair market value of processed coal of similar grade and quality reduced by the amount paid or payable to the registered taxpayer actually severing the coal.

(g) In all instances, the gross value shall not be reduced by any taxes, including the tax levied by KRS 143.020, royalties, sales commissions, or any other expense.

(7) "Reporting period" means the period for which each taxpayer shall compute his tax liability and remit the tax due to the *department*~~[cabinet]~~. The reporting period shall be monthly. However, the *department*~~[cabinet]~~ may, under certain conditions, authorize a quarterly reporting period.

(8) "Processing" includes cleaning, breaking, sizing, dust allaying, treating to prevent freezing, or loading or unloading for any purpose. "Processing" shall not include:

(a) Acts performed by a final consumer who is not a related party to the person who severed and/or processed the coal if such acts are performed only at the site where the coal is consumed for purposes of generating electricity; or

(b) The act of unloading or loading for shipment coal that has not been severed, cleaned, broken, sized, or otherwise treated in Kentucky.

(9) "Related party" means two (2) or more persons, organizations, or businesses owned or controlled directly or indirectly by the same interest. Control shall exist if a contract or lease, either written or oral, is entered into whereby one (1) party mines or processes coal owned or held by another party and the owner or lessor participates in the mining, processing, or marketing of the coal or receives any value other than an arm's length passive royalty interest. In the case of related parties, the *department*~~[cabinet]~~ may apportion or allocate the receipts between or among the persons, organizations, or businesses if it determines that the apportionment or allocation is necessary in order to more clearly reflect gross value.

(10) "Economic interest" for the purposes of this chapter shall be synonymous with the economic interest ownership required by Internal Revenue Code Section 611 in effect on December 31, 1977, entitling the taxpayer to a depletion deduction for income tax purposes with the exception that a party who only receives an arm's length royalty shall not be considered as having an economic interest.

(11) "Transportation expense" shall mean:

(a) The amount paid by a taxpayer to a third party for transporting coal from the mine mouth or pit to a processing plant, tipple, or loading dock.

(b) The expense incurred by a taxpayer using his own facilities in transporting coal from the mine mouth or pit to a processing plant, tipple, or loading dock.

(c) Transportation expenses shall not include:

1. The cost of acquisition, improvements, and maintenance of real property;

2. The cost of acquisition and operating expenses of mining and nonmining loading or unloading facilities;

3. The cost of acquisition and operating expenses of equipment used to load or unload the coal at the mine, processing facility, and mining and nonmining loading facility.

(12) "Registered taxpayer" as used in subsection (6)(e) and (f) of this section shall mean a "taxpayer" as defined in subsection (5) of this section who holds a valid coal tax certificate of registration required under KRS 143.030(1) and the certificate of registration was valid for the period in which his coal was sold.

(13) "Above-drainage" means coal in a coal bed that outcrops at the surface within a mine permit area and that is accessed at the outcrop location.

(14) "Below-drainage" means coal in a coal bed that does not outcrop at the surface within a mine permit area and that is accessed by mine slopes or other openings that penetrate the coal a minimum of thirty (30) feet below the surface drainage level.

(15) "Mining ratio" means the amount of bank cubic yards of surface material that must be removed before a ton of coal can be mined.

Section 535. KRS 143.040 is amended to read as follows:

The *Department of* Revenue~~[Cabinet]~~ shall administer the provisions of this chapter and shall, subject to the provisions of KRS 143.090, have all the powers, rights, duties, and authority with respect to promulgation of rules and regulations, assessment, collection, refunding and administration of the taxes levied by this chapter conferred generally on it by the Kentucky Revised Statutes including Chapters 131, 134, and 135 of such statutes.

Section 536. KRS 143.090 is amended to read as follows:

(1) The Transportation Cabinet shall certify to the *commissioner*~~[secretary]~~ of the *Department of* Revenue~~[Cabinet]~~ by October 1 of each fiscal year the amount required for lease rental payments to the Kentucky Turnpike Authority for resource recovery road projects.

(2) The Kentucky Coal Council shall certify to the *commissioner*~~[secretary]~~ of the *Department of* Revenue~~[Cabinet]~~ by October 1 of each year the amount of the annual lease rental payments required to be made for any energy research developmental or demonstration project undertaken by the Kentucky Coal Council. The amount so certified shall in no case exceed three million dollars ($3,000,000) in any one (1) year.

(3) Upon receiving the certifications provided for in subsections (1) and (2) of this section, the *commissioner*~~[secretary]~~ of the *Department of* Revenue~~[Cabinet]~~ shall cause the certified amounts to be deposited from the proceeds of the tax levied by KRS 143.020 to the credit of the transportation fund and the Kentucky Coal Council, respectively, unless otherwise provided by the General Assembly in a budget bill, as follows:

(a) An amount equal to the amount certified by the Transportation Cabinet shall be deposited to the transportation fund (road fund); and

(b) An amount equal to the amount certified by the Kentucky Coal Council shall be transferred by appropriate interfund transfer procedures to the Kentucky Coal Council.

(4) All tax levied by KRS 143.020 collected in excess of the amount required to be deposited to the transportation fund (road fund) or transferred to the Kentucky Coal Council shall be deposited by the *Department of* Revenue~~[Cabinet]~~ to the credit of the general fund.

(5) If the proceeds of the tax levied by KRS 143.020 are less than the amounts certified under subsections (1) and (2) of this section, the *commissioner*~~[secretary]~~ of revenue shall prorate the proceeds to the transportation fund and the Kentucky Coal Council based upon the ratio of each certified amount to the total of the two (2) certified amounts.

Section 537. KRS 143.025 is amended to read as follows:

(1) Taxpayers severing coal in Kentucky and partially or wholly processing the coal outside of Kentucky thereafter and taxpayers severing coal outside of Kentucky and partially or wholly processing the coal in Kentucky thereafter shall determine and report the gross value of the coal by application of the following formula:

(a) Determine the direct cost of severing or processing the coal in Kentucky as defined in subsections (d) and (e) of this section.

(b) Determine the direct cost of severing or processing the coal outside of Kentucky as defined in subsections (d) and (e) of this section.

(c) Exclude from subsections (a) and (b) of this section transportation expense as defined in KRS 143.010(11) and overhead cost as defined in subsection (f) of this section.

(d) Include in the direct cost of severing coal: black lung excise tax; contract mining, less transportation expense contained therein; cost depletion; depreciation; development; equipment rental; explosives; fuel; labor and associated expenses; maintenance; reclamation; royalties when based on tons severed; and wheelage.

(e) Include in the direct cost of processing coal: depreciation; equipment rental; fee processing; fuel; labor and associated expense; maintenance; and refuse disposal.

(f) Include in the overhead costs: commissions; freight yard and siding expense; general expense; general insurance and supervision; general office expense; idle time expense; inventory adjustments; mine closing expense; officers' salaries; percentage depletion; quality analysis; scale and weighman's expense; transportation expense and taxes, including sales, coal severance, property, franchises, and state income taxes.

(2) For purposes of computing the formula under this section, any expense which is not directly attributable to either the severing or processing of the coal shall be classified as an overhead cost.

(3) Direct cost determined in subsection (a) of this section divided by the total of direct cost determined in subsection (a) of this section and the direct cost determined in subsection (b) of this section and the result multiplied by the gross value of the coal shall equal the proportion of gross value which is subject to the tax levied under KRS 143.020.

(4) Any taxpayer determining taxable gross value as provided in this section shall submit supporting computations and classifications of cost with each coal tax return, unless the *department*~~[cabinet]~~ authorizes the taxpayer to submit the supporting information on a basis other than monthly.

Section 538. KRS 143.030 is amended to read as follows:

(1) Every individual, partnership, joint venture, association, limited liability company, limited liability partnership, corporation, or other business entity engaged in severing or processing coal shall, prior to July 1, 1978, or prior

to severing or processing coal in this Commonwealth, file an application for a certificate of registration in such form as the *department*~~[cabinet]~~ may prescribe. Every application shall be signed by:

(a) The owner if 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, acting on behalf of the owner, association, partnership, limited liability company, limited liability partnership, corporation, or other business entity.

(2) On or before the twentieth day of the month following the reporting period in which any coal is severed or processed, the taxpayer severing or processing such coal shall file with the *department*~~[cabinet]~~ a tax return in such form as the *department*~~[cabinet]~~ may require and remit the amount of the tax due. A tax return is required for each reporting period even though there may be no tax liability.

(3) Whenever any taxpayer fails to comply with any provisions of this chapter, or any rule or regulation of the *department*~~[cabinet]~~ relating thereto, the *department*~~[cabinet]~~ may order the suspension or revocation of the certificate of registration held by such taxpayer.

(4) Any taxpayer, including any officer of a corporation, who conducts a coal severing or processing operation in this state without obtaining a certificate of registration or after a certificate of registration has been suspended or revoked, shall be guilty of a misdemeanor and upon conviction therefor, shall be fined an amount not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for a period not to exceed six (6) months or both such fine and imprisonment.

Section 539. KRS 143.035 is amended to read as follows:

Notwithstanding any other provisions of this chapter to the contrary, where the *department*~~[cabinet]~~ finds that it would facilitate and expedite the collection of the tax imposed by this chapter, the *department*~~[cabinet]~~ may authorize the taxpayer processing the coal to report and pay the tax which would be due from the taxpayer severing the coal. Authorization from the *department*~~[cabinet]~~ shall be in the form of an agreement executed by the taxpayer processing the coal, the taxpayer severing the coal and the *department*~~[cabinet]~~. The agreement shall be in such form as the *department*~~[cabinet]~~ may prescribe. The agreement must be signed by the owners if the taxpayers are natural persons; in the case of a partnership or association by a partner or member; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application. The director of the sales and severance tax division shall sign for the *department*~~[cabinet]~~. The agreement may be terminated by any party to the agreement upon giving thirty (30) days written notice to the other parties to the agreement; however, the *department*~~[cabinet]~~ may terminate the agreement immediately upon written notice to the other parties when either the taxpayer processing the coal or the taxpayer severing the coal fails to comply with the terms of the agreement.

Section 540. KRS 143.037 is amended to read as follows:

(1) For the purpose of administering KRS 143.010(6)(e) and (f), the *department*~~[cabinet]~~ shall provide to all registered taxpayers, who sell severed or processed coal that will subsequently be claimed as a deduction for purchased coal, certificates or other similar forms designed for the purpose of permitting the processor of the coal to verify his deduction for purchased coal. If coal which has been severed outside this state is purchased by a processor, he shall acquire a statement in such form as the *department*~~[cabinet]~~ may prescribe from the person severing the coal outside this state.

(2) A deduction for purchased coal shall not be allowed for purchases of coal originating from persons severing coal in this state who are not registered to report and pay the tax due under this chapter or for purchases of coal which cannot be traced to a person who severed the coal outside this state.

Section 541. KRS 143.050 is amended to read as follows:

(1) Any taxpayer charged with the filing of reports and payment of the tax imposed by this chapter may be required to post a cash or corporate surety bond in an amount to be determined by the *department*~~[cabinet]~~.

(2) The Commonwealth may bring an action for a restraining order, temporary or permanent injunction to restrain or enjoin the operation of a taxpayer's business until the bond is posted. Such action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the taxpayer.

Section 542. KRS 143.060 is amended to read as follows:

(1) As soon as practicable after each return is received, the *department*~~[cabinet]~~ shall examine and audit it. If the amount of tax computed by the *department*~~[cabinet]~~ is greater than the amount returned by the taxpayer, the excess shall be assessed within four (4) years from the date the return was filed, except as provided in subsection (2) of this section, and except that in the case of a failure to file a return or of a fraudulent return, the excess may be assessed at any time. A notice of such assessment shall be mailed to the taxpayer. The time herein provided may be extended by agreement between the taxpayer and the *department*~~[cabinet]~~.

(2) For the purpose of subsections (1) and (4) of this section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

(3) Any final ruling, order or determination of the *department*~~[cabinet]~~ with regard to the administration of this chapter may be reviewed only in the manner provided in KRS 131.110 and 131.310 to 131.370.

(4) Notwithstanding the four (4) year time limitation of subsection (1), in the case of a return where the taxpayer understates the gross value by twenty-five percent (25%) or more, the excess shall be assessed by the *department*~~[cabinet]~~ within six (6) years from the date the return was filed.

Section 543. KRS 143.090 is amended to read as follows:

(1) The Transportation Cabinet shall certify to the *commissioner*~~[secretary]~~ of the *Department of* Revenue~~[Cabinet]~~ by October 1 of each fiscal year the amount required for lease rental payments to the Kentucky Turnpike Authority for resource recovery road projects.

(2) The Kentucky Coal Council shall certify to the *commissioner*~~[secretary]~~ of the *Department of* Revenue~~[Cabinet]~~ by October 1 of each year the amount of the annual lease rental payments required to be made for any energy research developmental or demonstration project undertaken by the Kentucky Coal Council. The amount so certified shall in no case exceed three million dollars ($3,000,000) in any one (1) year.

(3) Upon receiving the certifications provided for in subsections (1) and (2) of this section, the *commissioner*~~[secretary]~~ of the *Department of* Revenue~~[Cabinet]~~ shall cause the certified amounts to be deposited from the proceeds of the tax levied by KRS 143.020 to the credit of the transportation fund and the Kentucky Coal Council, respectively, unless otherwise provided by the General Assembly in a budget bill, as follows:

(a) An amount equal to the amount certified by the Transportation Cabinet shall be deposited to the transportation fund (road fund); and

(b) An amount equal to the amount certified by the Kentucky Coal Council shall be transferred by appropriate interfund transfer procedures to the Kentucky Coal Council.

(4) All tax levied by KRS 143.020 collected in excess of the amount required to be deposited to the transportation fund (road fund) or transferred to the Kentucky Coal Council shall be deposited by the *Department of* Revenue~~[Cabinet]~~ to the credit of the general fund.

(5) If the proceeds of the tax levied by KRS 143.020 are less than the amounts certified under subsections (1) and (2) of this section, the *commissioner*~~[secretary]~~ of revenue shall prorate the proceeds to the transportation fund and the Kentucky Coal Council based upon the ratio of each certified amount to the total of the two (2) certified amounts.

Section 544. KRS 143A.010 is amended to read as follows:

(1) "*Department*~~[Cabinet]~~" means the *Department of* Revenue~~[Cabinet]~~.

(2) "Natural resource" means all forms of minerals including but not limited to rock, stone, limestone, shale, gravel, sand, clay, natural gas, and natural gas liquids which are contained in or on the soils or waters of this state. For purposes of this chapter, "natural resource" does not include coal and oil which are taxed under KRS 143.020 and 137.120.

(3) "Severing" or "severed" means the physical removal of the natural resource from the earth or waters of this state by any means; however, "severing" or "severed" shall not include the removal of natural gas from

underground storage facilities into which the natural gas has been mechanically injected following its initial removal from the earth.

(4) "Taxpayer" means and includes any individual, partnership, joint venture, association, corporation, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind engaged in the business of severing and/or processing natural resources in this state for sale or use. In instances where contracts, either oral or written, are entered into whereby persons, organizations or businesses are engaged in the business of severing and/or processing a natural resource but do not obtain title to or do not have an economic interest therein, the party who owns the natural resource or has an economic interest is the taxpayer.

(5) "Gross value" is synonymous with gross income from property as defined in section 613(c) of the Internal Revenue Code and regulations 1.613-3 and 1.613-4 in effect on December 31, 1977, with the exception that in all instances transportation expense, as defined in subsection (9) of this section incurred in transporting a natural resource shall not be considered as gross income from the property. Gross value is to be reported as follows:

(a) For natural resources severed and/or processed and sold during a reporting period, gross value is the amount received or receivable by the taxpayer.

(b) For natural resources severed and/or processed, but not sold during a reporting period, gross value shall be determined as follows:

1. If the natural resource is to be sold under the terms of an existing contract, the contract price shall be used in computing gross value.

2. If there is no existing contract, the fair market value for that grade and quality of the natural resource shall be used in computing gross value.

(c) In a transaction involving related parties, gross value shall not be less than the fair market value for natural resources of similar grade and quality.

(d) In the absence of a sale, gross value shall be the fair market value for natural resources of similar grade and quality.

(e) If severed natural resources are purchased for the purpose of processing and resale, the gross value is the amount received or receivable during the reporting period reduced by the amount paid or payable to the taxpayer actually severing the natural resource.

(f) If severed natural resources are purchased for the purpose of processing and consumption, the gross value is the fair market value of processed natural resources of similar grade and quality reduced by the amount paid or payable to the taxpayer actually severing the natural resource.

(g) In all instances, the gross value shall not be reduced by any taxes including the tax levied in KRS 143A.020, royalties, sales commissions, or any other expense.

(6) "Processing" includes but is not limited to breaking, crushing, cleaning, drying, sizing, or loading or unloading for any purpose. "Processing" shall not include the act of unloading or loading for shipment natural resources that have not been severed, cleaned, broken, crushed, dried, sized or otherwise treated in Kentucky.

(7) "Related parties" means two (2) or more persons, organizations or businesses owned or controlled directly or indirectly by the same interests.

(8) "Economic interest" for the purpose of this chapter is synonymous with the economic interest ownership required by Internal Revenue Code, Section 611 in effect on December 31, 1977, entitling the taxpayer to a depletion deduction for income tax purposes with the exception that a party who only receives an arm's length royalty shall not be considered as having an economic interest.

(9) (a) "Transportation expense" means:

1. The amount paid by a taxpayer to a third party for transporting natural resources; and

2. The expenses incurred by a taxpayer using his own facilities in transporting natural resources from the point of extraction to a processing plant, tipple, or loading dock.

(b) Transportation expenses shall not include:

1. The cost of acquisition, improvements, and maintenance of real property;

2. The cost of acquisition and operating expenses of mining and nonmining loading or unloading facilities; or

3. The cost of acquisition and operating expenses of equipment used to load or unload the natural resource at the point of extraction, processing facility, or mining and nonmining loading facility.

Section 545. KRS 143A.040 is amended to read as follows:

The *Department of* Revenue~~[Cabinet]~~ shall administer the provisions of this chapter and shall have all the powers, rights, duties and authority with respect to rules and regulations, collection, refunding and administration of the taxes levied by KRS 143A.020 conferred generally on it by the Kentucky Revised Statutes, including KRS Chapters 131, 134 and 135.

Section 546. KRS 143A.050 is amended to read as follows:

(1) Every taxpayer as defined in KRS 143A.010(4) shall, before June 1, 1980, or before engaging in the severing or processing of a natural resource subjected to tax under KRS 143A.020, obtain a certificate of registration by filing with the *department*~~[cabinet]~~ an application in such form and containing such information as the *department*~~[cabinet]~~ may prescribe. Every application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.

(2) Whenever any taxpayer fails to comply with any provisions of this section through KRS 143A.130 or any rule or regulation of the *department*~~[cabinet]~~ relating thereto, the *department*~~[cabinet]~~ may suspend or revoke the certificate of registration held by such taxpayer.

(3) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin operation of a taxpayer's business being operated without a certificate of registration. Such action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the taxpayer.

Section 547. KRS 143A.060 is amended to read as follows:

Notwithstanding any other provisions of this chapter to the contrary:

(1) In the case of natural resources other than natural gas, where the *department*~~[cabinet]~~ finds that it would facilitate and expedite the collection of the tax imposed under KRS 143A.020, the *department*~~[cabinet]~~ may authorize the taxpayer processing the natural resource to report and pay the tax which would be due from the taxpayer severing the natural resource. Authorization from the *department*~~[cabinet]~~ shall be in the form of an agreement executed by the taxpayer processing the natural resource, the taxpayer severing the natural resource, and the *department*~~[cabinet]~~. The agreement shall be in such form as the *department*~~[cabinet]~~ may prescribe. The agreement must be signed by the owners if the taxpayers are natural persons; in the case of a partnership or association by a partner or member; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application. The director of legal services shall sign for the *department*~~[cabinet]~~. The agreement may be terminated by any party to the agreement upon giving thirty (30) days' written notice to the other parties to the agreement; however, the *department*~~[cabinet]~~ may terminate the agreement immediately upon written notice to the other parties when either the taxpayer processing the natural resource or the taxpayer severing the natural resource fails to comply with the terms of the agreement; and

(2) (a) In the case of natural gas, except for those cases:

1. Where the person severing or severing and processing the natural gas will sell the gas to the ultimate consumer; or

2. Where the *department*~~[cabinet]~~ determines that the collection of the taxes due under KRS 143A.020 would be accomplished in a more efficient and effective manner through the severor, or severor and processor, remitting the taxes,

the first person to purchase the natural gas after it has been severed, or in the event that the natural gas has been severed and processed before the first sale, the first person to purchase the natural gas after it has been severed and processed, shall be liable for the collection of the tax imposed under KRS 143A.020. He shall collect the taxes imposed from the person severing, or severing and processing, the natural gas, and he shall remit the taxes to the *department*~~[cabinet]~~. In those cases where the person severing or severing and processing the natural gas sells the gas to the ultimate consumer, the person so severing or severing and processing the natural gas shall be liable for the tax imposed under KRS

143A.020. In those cases where the *department*~~[cabinet]~~ determines that the collection of the taxes due under KRS 143A.020 from the severance or severance and processing of natural gas would be accomplished in a more efficient and effective manner through the severor, or severor and processor, remitting the taxes, the *department*~~[cabinet]~~ shall set out its determination in writing, stating its reasons for so finding, and so advise the severor or severor and processor at least fifteen (15) days in advance of the first reporting period for which such action would be effective.

(b) On or before the last day of the month following each calendar month, each person first purchasing natural gas as described in paragraph (a) of this subsection, shall report purchases of natural gas during the month, showing the quantities of gas purchased, the price paid, the date of purchase, and any other information deemed necessary by the *department*~~[cabinet]~~ for the administration of the tax levied by KRS 143A.020, and shall pay the amount of tax due, on forms prescribed by the *department*~~[cabinet]~~.

(c) On or before the last day of the month following each calendar month, each person severing, or severing and processing natural gas, shall report the sales of natural gas, showing the name and address of the person to whom sold, the quantity of gas sold, the date of sale, and the sales price on forms prescribed by the *department*~~[cabinet]~~.

Section 548. KRS 143A.070 is amended to read as follows:

(1) Whenever it is deemed necessary to insure compliance with KRS 143A.050 to 143A.130, the *department*~~[cabinet]~~ may require any taxpayer to post a cash or corporate surety bond.

(2) The amount of the bond shall be fixed by the *department*~~[cabinet]~~ but, except as provided in subsection (3) of this section, shall not be greater than three (3) times the average quarterly liability of taxpayers filing returns for quarterly periods, five (5) times the average monthly liability of taxpayers required to file returns for monthly periods, or two (2) times the average periodic liability of taxpayers permitted or required to file returns for other than monthly or quarterly periods.

(3) Notwithstanding the provisions of subsection (2) of this section, no bond required under this section shall be less than five hundred dollars ($500).

(4) The amount of the bond provided herein may be increased or decreased by the *department*~~[cabinet]~~ at any time subject to the limitations herein provided.

(5) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of a taxpayer's business until the bond is posted and any delinquent tax, including applicable interest and penalties, has been paid. Such action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the taxpayer.

Section 549. KRS 143A.080 is amended to read as follows:

(1) On or before the last day of the month following each calendar month, every taxpayer shall report the gross value of natural resources sold, processed, or used during the preceding month and pay the amount of tax due on forms prescribed by the *department*~~[cabinet]~~.

(2) Returns shall be signed by the taxpayer required to file the return or by his duly authorized agent but need not be verified by oath.

(3) Returns required under this section shall contain such information as the *department*~~[cabinet]~~ deems necessary for the proper administration of this chapter.

(4) The taxpayer required to file the return provided under this section shall deliver the return together with a remittance of the amount of the tax due to the *department*~~[cabinet]~~.

(5) For purposes of facilitating the administration, payment, or collection of the taxes levied by KRS 143A.020, the *department*~~[cabinet]~~ may permit or require returns or tax payments for periods other than monthly. When permitted, returns for other than monthly periods shall be filed and paid in such manner as the *department*~~[cabinet]~~ may prescribe.

(6) No taxpayer shall change from the reporting system required under this section or permitted in writing by the *department*~~[cabinet]~~, without the written authorization of the *department*~~[cabinet]~~.

(7) A tax return is required for each reporting period even though there may be no tax due.

Section 550. KRS 143A.100 is amended to read as follows:

(1) As soon as practicable after each return is received, the *department*~~[cabinet]~~ shall examine and audit it. If the amount of tax computed by the *department*~~[cabinet]~~ is greater than the amount returned by the taxpayer, the excess shall be assessed by the *department*~~[cabinet]~~ within four (4) years from the date the return was filed, except as provided in subsection (4) of this section and except that in the case of a failure to file a return or of a fraudulent return the excess may be assessed at any time. A notice of such assessment shall be mailed to the taxpayer. The time herein provided may be extended by agreement between the taxpayer and the *department*~~[cabinet]~~.

(2) For the purpose of subsections (1) and (4) of this section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

(3) When a business is discontinued, a determination may be made at any time thereafter within the periods specified in subsection (1) of this section as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in KRS 143A.080.

(4) Notwithstanding the four (4) year time limitation of subsection (1) of this section, in the case of a return where the tax computed by the *department*~~[cabinet]~~ is greater by twenty-five percent (25%) or more than the amount returned by the taxpayer, the excess shall be assessed by the *department*~~[cabinet]~~ within six (6) years from the date the return was filed.

Section 551. KRS 143A.120 is amended to read as follows:

In making a determination of tax liability the *department*~~[cabinet]~~ may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.

Section 552. KRS 143A.130 is amended to read as follows:

(1) Every taxpayer liable for the reporting or payment of the taxes levied by KRS 143A.020 shall keep such records, receipts, invoices, and other pertinent papers in such form as the *department*~~[cabinet]~~ may require.

(2) Every such taxpayer shall keep such records for not less than four (4) years from the making of such records unless the *department*~~[cabinet]~~ in writing sooner authorizes their destruction.

Section 553. KRS 143A.140 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 *department*~~[cabinet]~~ and shall contain such information as the *department*~~[cabinet]~~ may require.

Section 554. KRS 144.110 is amended to read as follows:

As used in KRS 144.110 to 144.130, unless the context requires otherwise:

(1) "Air transportation facilities and related equipment" means any facilities, improvements, or equipment located at an airport and used, directly or indirectly, by the certificated air carrier or its customers in the carrier's business of transporting persons or property for hire. It includes exclusive space leased or owned by the certificated air carrier, common access areas, concession areas, aircraft ramps, taxiways, roadways, and vehicles which are part of an intra-airport train, subway, or automated fixed guideway transit system, but excludes any other ground vehicles and aircraft.

(2) "Investment" means all costs which, consistent with the fundamental project scope, the certificated air carrier, airport operator, or any bond trustee pays, commits to pay, or incurs in any manner for the purchase or acquisition of additional air transportation facilities for which construction was started after the base period, and related equipment which was not located at an airport in this Commonwealth prior to the base period. Included are costs directly related to the design, construction, purchase, acquisition, lease, use, or financing of part or all of the additional air transportation facilities and related equipment whether owned, leased, or used by the carrier or its customers. Financing costs shall be limited to the principal amount of bonds or other obligations, capitalized interest, and any related issuance costs and expenses. The total investment shall not be offset or otherwise reduced if the certificated air carrier or airport operator is or subsequently becomes eligible for any reimbursement from either federal funds or other funds which may be available, including funds generated directly or indirectly from passenger facility charges. Likewise, any subsequent adjustment to the

total investment provided in a carrier's contractual obligation shall not adversely affect the amount of the investment if the fundamental project scope is not reduced.

(3) "Annual period" means the certificated air carrier's taxable year as provided in KRS 141.140.

(4) "Base period" means the certificated air carrier's annual period ending in 1990.

(5) "Contractually obligated" or "contractual obligation" means having entered into a written agreement or commitment to make an investment in air transportation facilities and related equipment in this state.

(6) "Gross Kentucky real wage base" means the wages subject to Kentucky income tax and Kentucky income tax withholding pursuant to KRS Chapter 141, paid by a certificated air carrier during the base period adjusted to reflect changes in the United States Department of Labor's "Employment Cost Index - Wages and Salaries" for the transportation industry or, at the option of the carrier and upon verification by the *Department of* Revenue~~[Cabinet]~~, the carrier's actual general wage increases, through the end of the annual period for which tax credit is claimed pursuant to KRS 144.125.

(7) "Nonqualifying employees" means employees of the certificated air carrier whose employment with the carrier began after the base period; and

(a) The employees perform essentially the same functions which, by contract or otherwise, were performed in this Commonwealth for the carrier by another company at any time after the base period; or

(b) Their employment continued in this Commonwealth as the result of the carrier's purchase, merger, or other acquisition of or combination with another company.

(8) "Fundamental project scope" means the total project consisting of the additional air transportation facilities and related equipment as reflected in the carrier's application filed pursuant to KRS 144.130. It shall be measured by the carrier's increased capacity. Measures of increased capacity may include such factors as square footage, cost, employment, passenger or freight loadings or handling capabilities, number of aircraft departures, and other factors related to the increased investment.

Section 555. KRS 144.120 is amended to read as follows:

(1) Subject to the provisions of subsections (4), (5), and (6) of this section and KRS 144.130, any certificated air carrier which is engaged in the air transportation of persons or property for hire shall be entitled to a Kentucky sales and use tax credit, as computed in subsection (3) of this section, on aircraft fuel, including jet fuel, purchased after June 30, 1991, for any annual period in which the carrier meets or exceeds the investment or fuel purchase qualification requirements prescribed in subsection (2) of this section.

(2) To qualify for the sales and use tax credit provided in subsection (1) of this section, the certificated air carrier shall:

(a) Prior to or during the annual period for which the credit is claimed, have made, caused to be made, or obtained contractual obligations to make, consistent with the fundamental project scope, an investment in the aggregate of at least three hundred million dollars ($300,000,000) in new and expanded air transportation facilities and related equipment in this Commonwealth; or

(b) During the annual period for which the credit is claimed, purchase and place into the fuel supply tank of its aircraft in this state not less than one hundred million (100,000,000) gallons of aircraft fuel, including jet fuel, for the carrier's direct operation of the aircraft in interstate or foreign commerce exclusively for the conveyance of property or passengers for hire. Nominal use of the aircraft fuel in intrastate commerce shall not affect this provision.

(3) 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 four million dollars ($4,000,000). The four million dollar ($4,000,000) 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 twelve (12) month period immediately preceding the purchase, merger, or other acquisition by or combination with the certificated air carrier.

(4) To facilitate administration of the tax credit provided pursuant to this section, each qualifying certificated air carrier purchasing aircraft fuel, including jet fuel, on which the Kentucky sales and use tax for the annual

period is reasonably expected to exceed the amount provided in subsection (3) of this section shall report and pay directly to the *Department of* Revenue~~[Cabinet]~~ the tax applicable to aircraft fuel, including jet fuel, purchased for its storage, use, or other consumption during the annual period, less the credit provided herein.

(5) Notwithstanding the provisions of subsection (1) of this section, no certificated air carrier shall be entitled to any tax credit pursuant to this section unless the carrier meets the requirements of subsection (2) of this section by the annual period ending in 1997.

(6) Each certificated air carrier claiming the sales and use tax credit authorized pursuant to this section shall file an annual sales and use tax reconciliation report with the *Department of* Revenue~~[Cabinet]~~ on or before the fifteenth day of the fourth month following the end of each annual period for which the credit is claimed. The report shall be filed as provided in KRS 144.137.

Section 556. KRS 144.125 is amended to read as follows:

(1) Subject to the provisions of subsections (4) through (9) of this section and KRS 144.130, any certificated air carrier which is engaged in the air transportation of persons or property for hire shall be entitled to a general tax credit, as computed in subsection (3) of this section, for any annual period in which the certificated air carrier meets or exceeds the investment and gross wage qualification requirements prescribed in subsection (2) of this section and has elected to begin claiming the credit.

(2) To qualify for the general tax credit provided in subsection (1) of this section, the certificated air carrier shall:

(a) Prior to or during the annual period for which the credit is claimed, have made, caused to be made, or obtained contractual obligations to make, consistent with the fundamental project scope, an investment in the aggregate of at least three hundred million dollars ($300,000,000) in new and expanded air transportation facilities and related equipment in this Commonwealth; and

(b) During the annual period for which the credit is claimed, have gross wages subject to Kentucky income tax and Kentucky income tax withholding pursuant to KRS Chapter 141 which are at least fifteen million dollars ($15,000,000) greater than its gross Kentucky real wage base. In calculating the gross wages paid for the annual period for which the credit is claimed, there shall not be included the wages of any nonqualifying employees of the certificated air carrier.

(3) The general tax credit shall be an amount equal to ten percent (10%) of the increase in gross wages subject to Kentucky income tax and Kentucky income tax withholding paid by the certificated air carrier during the annual period as compared to the carrier's gross Kentucky real wage base. In calculating the gross wages paid for the annual period for which the credit is claimed, there shall not be included the wages of any nonqualifying employees of the certificated air carrier.

(4) The general tax credit may accrue for only five (5) consecutive annual periods of the qualifying certificated air carrier. The five (5) year limitation period shall begin at the election of the qualifying certificated air carrier, but not later than the carrier's annual period beginning in 1997. The tax credit shall accrue to the carrier only for the annual periods during which the carrier meets or exceeds the requirements as provided in subsection (2) of this section.

(5) The general tax credit authorized to a qualifying certificated air carrier shall not exceed three million dollars ($3,000,000) for any annual period.

(6) The general tax credit authorized to a qualifying certificated air carrier shall not exceed a total of fifteen million dollars ($15,000,000).

(7) The general tax credit authorized shall be claimed by the qualifying certificated air carrier first against its Kentucky corporation income tax liability, then against its Kentucky corporation license tax liability, with any remaining balance to be claimed against its Kentucky sales and use tax liability. The credit shall not be applied to any other liability due the Commonwealth. The *Department of* Revenue~~[Cabinet]~~ may prescribe the method or manner for the qualifying certificated air carrier to claim the tax credit on applicable tax returns filed with the *department*~~[cabinet]~~.

(8) If the tax liabilities against which the tax credit is to be claimed pursuant to subsection (7) of this section are not sufficient to fully absorb the allowable tax credit, or if a net operating loss carryback or other subsequent adjustment reduces the carrier's liability against which a credit authorized by this section has previously been claimed, the unused or excess balance of the allowable credit may be applied against the carrier's liabilities for the specified taxes for previous or subsequent annual periods within the five (5) year limitation period.

However, no refund in excess of the net tax actually paid by the carrier shall be made by the Commonwealth because of the carrier's application of the unused or excess credit. Interest shall not apply to any tax refunded for a prior period resulting from the credit carryback provisions of this subsection.

(9) Each certificated air carrier claiming the general tax credit authorized pursuant to this section shall file an annual general tax credit reconciliation report with the *Department of* Revenue~~[Cabinet]~~ on or before the fifteenth day of the fourth month following the end of each annual period for which the credit is claimed. The report shall be filed as provided in KRS 144.135 to 144.139 for each type tax against which the credit is applied.

Section 557. KRS 144.130 is amended to read as follows:

(1) No certificated air carrier shall claim any tax credit pursuant to KRS 144.110 to 144.130 until its entitlement thereto is first determined by the *Department of* Revenue~~[Cabinet]~~. Upon application to the *department*~~[cabinet]~~, a certificated air carrier desiring to claim a tax credit pursuant to KRS 144.110 to 144.130 shall present documentation as may reasonably be required by the *department*~~[cabinet]~~ to define the fundamental project scope and verify the required investment, the increased capacity which is to result from the investment, and the anticipated project completion date. Documentation may include the carrier's contractual obligations, its corporation board resolutions or stockholder reports, airport board resolutions or actions, related financial transactions, and any other documentation which defines or describes the fundamental project scope and the carrier's planned investment and increased capacity. The *commissioner of the Department of Revenue*~~[secretary of the Revenue Cabinet]~~ shall, upon the *department's*~~[cabinet's]~~ review of the documentation submitted by the carrier, make a tax credit entitlement determination and immediately give notice thereof to the carrier. In making an entitlement determination, the *Department of* Revenue~~[Cabinet]~~ shall seek whatever third-party counsel and advice deemed appropriate to satisfy itself that the fundamental project scope is sufficient to support at least a three hundred million dollar ($300,000,000) investment in additional air transportation facilities and related equipment. An entitlement granted by the *commissioner of the Department of Revenue*~~[secretary of the Revenue Cabinet]~~ for a certificated air carrier to claim any tax credit pursuant to KRS 144.110 to 144.139 shall be subject to the provisions of subsection (2) of this section.

(2) Any certificated air carrier which is granted entitlement to claim any tax credit pursuant to KRS 144.110 to 144.130 shall, by the anticipated project completion date specified in the carrier's application filed pursuant to subsection (1) of this section, but not later than the carrier's annual period ending in 1997, demonstrate to the satisfaction of the *Department of* Revenue~~[Cabinet]~~ that an investment of at least three hundred million dollars ($300,000,000) has been made or that the carrier has completed at least ninety percent (90%) of the fundamental project scope. An investment of three hundred million dollars ($300,000,000) or the completion of at least ninety percent (90%) of the fundamental project scope shall constitute fulfillment of the investment requirement. Without precluding the carrier's demonstration by other means, completion of ninety percent (90%) of the projected increased passenger or freight handling or loading capacity, as measured by the number of gates or loading facilities, or completion of at least ninety percent (90%) of the total square footage of the buildings, including the fixtures and equipment therefor, which were to be constructed and equipped as a part of the fundamental project scope shall demonstrate completion of at least ninety percent (90%) of the fundamental project scope. If the carrier has not made an investment of at least three hundred million dollars ($300,000,000) and has not completed at least ninety percent (90%) of the fundamental project scope by the anticipated project completion date, but not later than the carrier's annual period ending in 1997, all or a portion of the tax credit otherwise authorized pursuant to KRS 144.110 to 144.130 shall be forfeited as follows:

Fundamental Project Scope Completion Percentage	Portion of Credit Forfeited
At least 80%, but less than 90%	25%
At least 70%, but less than 80%	50%
Less than 70%	100%

(3) The *Department of* Revenue~~[Cabinet]~~ shall be responsible for determining the extent of the certificated air carrier's completion of the fundamental project scope. In making the determination, the *department*~~[cabinet]~~ shall consult with the certificated air carrier, the affected airport board and, if deemed necessary, with other persons.

(4) Subject to the provisions of KRS 131.110, notwithstanding the provisions of KRS 136.076, 139.620, 141.210, 413.120, or any other provision of the Kentucky Revised Statutes limiting the time for assessing taxes, the *Department of* Revenue~~[Cabinet]~~ shall assess against the carrier the amount of any tax credit previously claimed which is forfeited pursuant to subsection (2) of this section. Interest at the tax interest rate as defined in KRS 131.010(6) shall apply to the forfeited tax credit amount from the date the credit was claimed until reimbursement is made to the Commonwealth. The carrier shall be allowed to claim in any applicable subsequent annual periods only that portion of the credit otherwise authorized pursuant to KRS 144.110 to 144.130 which has not been forfeited as provided in this section.

(5) The dates set forth in subsection (2) of this section may be extended by the *commissioner of the Department of Revenue*~~[secretary of the Revenue Cabinet]~~, upon request by the carrier, by an amount of time equal to any delay caused by circumstances reasonably beyond the carrier's control which prevent the carrier from completing the project by the anticipated project completion date, including construction delays and delays resulting from the carrier's compliance with applicable federal, state, or local laws, rules and regulations, or an order or judgment of a court or administrative agency. They may also be extended by the *commissioner of the Department of Revenue*~~[secretary of the Revenue Cabinet]~~ upon the carrier's showing of any other good cause. The Governor and the Legislative Research Commission shall be immediately notified of any extension granted pursuant to this subsection and the reason for granting the same.

(6) Upon the making of an initial tax credit entitlement determination pursuant to subsection (1) of this section, the *Department of* Revenue~~[Cabinet]~~ shall immediately give written notification to the Governor and the Legislative Research Commission and shall include a description of the fundamental project scope and a summary of the estimated costs. Upon making a final determination as provided in subsections (2) and (3) of this section, the *Department of* Revenue~~[Cabinet]~~ shall immediately give written notification to the Governor and the Legislative Research Commission of the extent to which the fundamental project scope was completed. Such notification shall include a summary of the total costs expended for the completed project and a description of any changes to or deviations from the fundamental project scope.

Section 558. KRS 144.132 is amended to read as follows:

(1) Subject to the provisions of subsection (2) of this section, any certificated air carrier which is engaged in the air transportation of persons or property for hire shall be entitled to a credit against the Kentucky sales and use tax paid on aircraft fuel, including jet fuel, purchased after June 30, 2000, as determined under subsection (2) of this section.

(2) For fiscal years beginning after June 30, 2000, certificated air carriers shall pay the first one million dollars ($1,000,000) in Kentucky sales and use tax due that is applicable to the purchase of aircraft fuel, including jet fuel. The sales and use tax credit shall be an amount equal to the Kentucky sales and use tax otherwise applicable to the purchase of aircraft fuel, including jet fuel, purchased by the certificated air carrier during each fiscal year beginning after June 30, 2000, in excess of one million dollars ($1,000,000).

(3) Each certificated air carrier purchasing aircraft fuel, including jet fuel, on which Kentucky sales and use tax for the fiscal year is reasonably expected to exceed one million dollars ($1,000,000) shall report and pay directly to the *Department of* Revenue~~[Cabinet]~~ the tax applicable to the purchase of aircraft fuel, including jet fuel, purchased for storage use or other consumption during the fiscal year.

(4) Each certificated air carrier claiming the sales and use tax credit authorized pursuant to this section shall file an annual sales and use tax reconciliation report with the *Department of* Revenue~~[Cabinet]~~ on or before October 15 of the fiscal year following the fiscal year for which the credit is claimed. The report shall be filed as provided in KRS 144.137.

Section 559. KRS 144.135 is amended to read as follows:

The general tax credit reconciliation report required to be filed by qualifying certificated air carriers pursuant to KRS 144.125 shall be submitted to the *Department of* Revenue~~[Cabinet]~~ in a form and contain information and documentation as the *department*~~[cabinet]~~ may reasonably require to verify the carrier's computation of the tax credit and the use of the credit against the tax levied by KRS 136.070.

Section 560. KRS 144.137 is amended to read as follows:

The sales and use tax aviation fuel tax credit reconciliation report and the general tax credit reconciliation report required to be filed by qualifying certificated air carriers pursuant to KRS 144.120, 144.125, and 144.132 shall be submitted to the *Department of* Revenue~~[Cabinet]~~ in a form and contain information and documentation as the

department~~[cabinet]~~ may reasonably require to verify the carrier's computation of the applicable tax credit and the use of the credit against the taxes levied by KRS Chapter 139.

Section 561. KRS 144.139 is amended to read as follows:

The general tax credit reconciliation report required to be filed by qualifying certificated air carriers pursuant to KRS 144.125 shall be submitted to the *Department of* Revenue~~[Cabinet]~~ in a form and contain information and documentation as the *department*~~[cabinet]~~ may reasonably require to verify the carrier's computation of the tax credit and the use of the credit against the tax levied by KRS 141.040.

Section 562. KRS 147A.025 is amended to read as follows:

(1) Except as provided in subsection (7) of this section, the Department for Local Government with the advice and approval of the state local finance officer annually shall conduct a program to instruct county clerks, sheriffs, jailers, and county treasurers respecting their duties and responsibilities in the collection and expenditure of public moneys, subject to their control and jurisdiction.

(2) The department with the advice and approval of the state local finance officer shall establish the content and publish instructional materials essential to implementing this program. Subsequent to every regular and extraordinary session of the General Assembly, the department with the state local finance officer shall review and revise, if necessary, the program when it is found not to be consistent with state law.

(3) The department may assess a charge to any person requesting copies of instructional materials published as provided by this section to cover actual costs of printing and handling these materials, except that no county official shall be charged for instructional materials provided for his use. Funds accruing from the sale of instructional materials shall be paid into the State Treasury, and the State Treasurer shall pay these funds into an account of the department to defray the costs of printing and handling these materials.

(4) The commissioner of the department with the advice and approval of the state local finance officer may prescribe completion standards for this program, and may, subject to subsection (6) of this section, establish the number, type and sequence of instructional sessions to be conducted by the department; but the commissioner of the department shall not require the attendance of any county official, nor shall he prescribe any requirement or standard that restricts or impairs a county official or elected candidate in the lawful pursuit or conduct of the office to which he is elected.

(5) The department shall notify in advance each county clerk, sheriff, jailer, and county treasurer respecting instructional session pertinent to his office. Notification shall be by mail, and it shall be posted no later than twenty-one (21) days prior to the instructional session. At a minimum, the notice shall give the date, time, place and title of the instruction session.

(6) The department shall conduct this program by providing a one (1) day session at various locations throughout this state in order to minimize the travel expenses of those officials attending, provided that the aggregate number of all sessions shall not exceed five (5) during any calendar year. Except as provided in subsection (7) of this section, the department may commence instruction anytime during a calendar year.

(7) The department shall not conduct a program as provided by this section during any calendar year when a general election is held for every constitutional county office. The department, however, shall commence instruction for the succeeding year within eighty (80) days following said general election.

(8) Every county official who attends an instructional session shall be paid his actual and necessary expenses in attending from the operating funds of his office.

(9) In fulfilling the requirements of this section, the department shall confer with and coordinate its duties and responsibilities with the Finance and Administration Cabinet~~[, the Revenue Cabinet]~~ and the Auditor of Public Accounts. The department shall also confer with those state universities whose mission statements mandate their participation in the training of public officials, the state associations for those officials listed in subsection (1) of this section, and the Kentucky Association of Counties, respecting the implementation of this section.

Section 563. KRS 147B.100 is amended to read as follows:

(1) There is recognized as established the Governor's Financial Policy Council. The purpose of the council shall be to advise the Governor on economic and financial matters relating to revenue, budgetary, and financial management policies.

(2) The council shall consist of the secretary of Finance and Administration Cabinet, ~~[the secretary of the Revenue Cabinet,]~~ the state budget director, and four (4) at-large members, appointed by the Governor, who shall be persons that are knowledgeable by reason of their experience and academic training, in the fields of business, financial management or public policy. The Governor shall designate one (1) of the four (4) at-large members to serve as chairman of the council.

(3) The terms of the at-large members shall coincide with the elected term of the Governor who appointed them. Vacancies in the at-large membership of the council shall be filled by appointment by the Governor for the unexpired portion of the vacated member's term.

(4) The council shall meet at least annually and shall hold other meetings deemed necessary by a majority of the membership or when requested by the Governor.

(5) The members of the Governor's council shall serve without compensation for their services but shall be reimbursed, subject to the provisions of KRS 45.101 and state travel regulations, for all actual and necessary expenses incurred in the performance of their duties as members of the council.

Section 564. 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 *and*~~[,]~~ 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 *and*~~[,]~~ 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 *and*~~[,]~~ 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) 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 565. 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;

(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 *Department of* 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 566. KRS 149.570 is amended to read as follows:

(1) When the property tax rolls are delivered to the county clerk by the property valuation administrator, as required by law, the county clerk shall compute the assessment due the county from each owner of timberland in accordance with the rate fixed by the county governing body and the amount of timberland acreage indicated on the property tax roll.

(2) The computation shall be made on the regular tax bills in such manner as may be directed by regulation of the *Department of* Revenue~~[Cabinet]~~.

(3) The county clerk shall deliver these bills to the sheriff for collection as provided in KRS 133.220(3).

Section 567. KRS 151.730 is amended to read as follows:

(1) The authority is hereby authorized to provide, at one (1) time or from time to time, for the issuance of its revenue bonds for the purpose of paying all or any part of the cost of any one (1) or more projects undertaken pursuant to KRS 151.720. The principal of and the interest on such bonds shall in each instance be payable solely from a special fund provided for the payment, with revenues derived from water use fees collected from all facilities using water from the Kentucky River basin, except those facilities using water primarily for agricultural purposes, pledged to be set aside and deposited in such special fund. The bonds of any issue may be in one (1) or more series and any one (1) or more such series may enjoy equal or subordinate status with respect to the pledge of funds from which they are payable, shall be dated, shall bear interest, shall mature at such time or times not exceeding the thirtieth anniversary of their respective dates, all as may be provided by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form of bonds including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places for payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. The bonds shall be signed by the facsimile signature of the chairman of the authority, and the seal of the authority or a facsimile thereof shall be affixed thereto and attested by the manual signature of the treasurer of the authority, and any coupons attached thereto shall bear the facsimile signature of the chairman of the authority. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such

officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of this section shall have and are hereby declared to have all qualities and incidents of negotiable instruments under the uniform commercial code of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The authority may sell such bonds at public sale, and for such price as it may determine will best effect the purposes of KRS 151.720.

(2) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project or projects for which such bonds shall have been issued, and shall be disbursed in such a manner and under such restrictions, if any, as the authority may provide in the proceedings authorizing the issuance of such bonds or in the trust indenture securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the proceedings authorizing the issuance of such bonds or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund or funds for such bonds or any account or accounts therein as the authority shall have provided in the proceedings or trust indenture authorizing and securing such bonds.

(3) Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

(4) The authority may issue revenue bond anticipation notes.

(5) Any holder of bonds issued under the provisions of this section or any of the coupons appertaining thereto, and the trustee under any trust indenture, except to the extent of the rights given in this section, may be restricted by such trust indenture or proceedings, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted under this section or under such trust indenture or the proceedings authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this section or by such trust indenture or proceedings to be performed by the authority or by any officer or employee thereof.

(6) Revenue bonds issued under the provisions of this section shall not be a debt, liability, or obligation of the Commonwealth or any political subdivision thereof and shall not be a pledge of the faith and credit of the Commonwealth or any political subdivision thereof.

(7) Revenue bonds issued by the authority shall be subject to the jurisdiction and approval of the State Property and Buildings Commission and the Capital Projects and Bond Oversight Committee and shall be subject to review by the Office of Financial Management *established in Section 11 of this Act*.

(8) The authority shall not be required to pay any taxes and assessments to the Commonwealth or any county, municipality, or other governmental subdivision of the Commonwealth upon any of its property or upon its obligations or other evidences of indebtedness pursuant to the provisions of this section, or upon any moneys, funds, revenues, or other income held or received by the authority and the bonds or notes of the authority and the income therefrom shall at all times be exempt from taxation, except for death and gift taxes and taxes of transfers.

(9) Contractual expenses to construct, reconstruct, provide for the major maintenance, or repair the Kentucky River locks and dams, or to maintain the channel, or to acquire real or personal property pertaining thereto, or to construct, reconstruct, maintain, or repair such property, shall be paid from the proceeds of the revenue bonds. Expenses for administrative services and necessary travel expenses and per diem compensation of authority members, shall not be paid from the proceeds of the revenue bonds. Nor shall the cabinet's cost of operating the locks be paid from the proceeds of the revenue bonds.

Section 568. KRS 153.180 is amended to read as follows:

(1) There is hereby established a nonprofit foundation to be known as the Kentucky Foundation for the Arts. The purpose of the foundation shall be to enhance the stability of Kentucky's arts organizations and to ensure Kentuckians have access to the arts through the support of an endowment fund.

(2) Funding for the foundation shall be obtained through state appropriations, gifts, grants, and any other funds from the public and private sectors. The foundation board shall have the authority to solicit, accept, and receive contributions from the public and private sectors to match public funding. Moneys in the foundation fund shall not lapse to the general fund at the end of the fiscal year. Moneys in the foundation fund shall be invested by the Office of Financial Management *established in Section 11 of this Act* consistent with the provisions of KRS Chapter 42, and interest income earned shall be credited to the foundation fund. The foundation board may use the investment income for the purpose of awarding matching grants to nonprofit arts organizations to carry out the following programs:

(a) The Performing Arts and Visual Arts Touring Subsidy Program shall support tours and exhibitions for the education and enjoyment of audiences throughout the state.

(b) The Institutional Stabilization Program shall provide operating funds to achieve short-term or long-term stability of arts organizations.

(3) The foundation shall be governed by a board of trustees consisting of six (6) members appointed by the Governor on recommendations from the Kentucky Arts Council. For the initial appointments, the Governor shall appoint two (2) members to serve two (2) year terms; two (2) members to serve three (3) year terms; and two (2) members to serve four (4) year terms. Thereafter, the Governor shall make all appointments for a term of four (4) years. The board shall elect by majority vote a chair and other officers deemed necessary. Board members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of KRS 44.070 and 45.101 for actual and necessary expenses incurred in the performance of their duties.

(4) The foundation board shall perform duties and responsibilities deemed necessary to fulfill the purposes of this section. The foundation board shall establish by administrative regulation procedures for administration of the foundation, eligibility criteria for the award of grants, appropriate matching contributions from grant recipients, and evaluation and reporting requirements.

(5) The foundation shall be attached to the office of the secretary for the Education, Arts, and Humanities Cabinet for administrative purposes only. The Kentucky Arts Council shall provide to the foundation by agreement staff support and office facilities for which reasonable charges and fees may be levied against the foundation fund.

(6) The foundation board shall submit an annual report to the Governor and the Legislative Research Commission listing the sources of funds acquired and expended.

Section 569. KRS 154.12-2086 is amended to read as follows:

(1) The Bluegrass State Skills Corporation may, in accordance with KRS 154.12-2084 to 154.12-2089, award a credit against the Kentucky income tax imposed by KRS 141.020 or 141.040 to an approved company. The amount of the skills training investment credit awarded by the Bluegrass State Skills Corporation shall be an amount equal to fifty percent (50%) of the amount of approved costs incurred by the approved company in connection with its program of occupational upgrade training or skills upgrade training, the credit amount not to exceed five hundred dollars ($500) per employee and, in the aggregate, not to exceed one hundred thousand dollars ($100,000) for each approved company per biennium. The Bluegrass State Skills Corporation shall only approve one (1) application per biennium for each qualified company.

(2) The skills training investment credit shall be credited on the income tax return of the approved company filed for the fiscal year during which the final authorizing resolution is adopted by the Bluegrass State Skills Corporation in accordance with KRS 154.12-2088(6). The skill training investment credits allowed under KRS 154.12-2084 to 154.12-2089 shall only be used by the approved company that has been awarded the credits in accordance with KRS 154.12-2084 to 154.12-2089. The skills training investment credits provided for in this section shall be in addition to all other tax credits granted under the laws of the Commonwealth.

(3) The skills training investment credits may be carried forward for three (3) successive fiscal years of the approved company if the amount allowable as credits exceeds the income tax liability of the approved company in the tax year during which the final authorizing resolution is adopted by the Bluegrass State Skills Corporation; however, thereafter, if the amount allowable as credits exceeds the income tax liability of the

approved company, the excess credits shall not be refundable or carried forward to any other fiscal year of the approved company for which a tax return of the approved company is to be filed.

(4) A qualified company shall not be entitled to receive the skills training investment credits if the qualified company requires that the employee reimburse the employer or otherwise pay for any costs or expenses incurred in connection with the occupational upgrade training or skills upgrade training.

(5) To the extent that any expenditures of a qualified company constitute approved costs and are the basis for the skills training investment credits under KRS 154.12-2084 to 154.12-2089, these expenditures shall not be eligible as the basis for grants-in-aid under Bluegrass State Skills Corporation provisions in KRS 154.12-204 to 154.12-208 or the Local Government Economic Development Program under the provisions of KRS 42.4588 to 42.4595.

(6) Priority consideration for preliminary approval under KRS 154.12-2088 shall be given to qualified companies that the Bluegrass State Skills Corporation determines to be high performance companies. A minimum of thirty percent (30%) of the total skills training investment credits authorized by the Bluegrass State Skills Corporation during any fiscal year shall be awarded to qualified companies that have been designated as high performance companies by the Bluegrass State Skills Corporation. The Bluegrass State Skills Corporation shall establish guidelines and standards for the designation of high performance companies.

(7) By October 1 of each year, the *Department of* Revenue~~[Cabinet]~~ shall certify to the Bluegrass State Skills Corporation the amount of any skills training investment credits taken pursuant to KRS 154.12-2084 to 154.12-2089 on tax returns filed during the fiscal year ending June 30 of that year.

Section 570. KRS 154.20-256 is amended to read as follows:

(1) The approval of investment funds and investment fund managers shall be made pursuant to an application to the authority submitted by a proposed fund manager on behalf of a proposed investment fund and shall include:

(a) The name, address, and Social Security number or employer identification number, as applicable, of the investment fund manager and the investment fund;

(b) The applicant's business plan, including the minimum and maximum amount of cash contributions to be solicited for the investment fund, and strategy for operation of the proposed investment fund;

(c) The amount of credits the investment fund seeks for making qualified investments;

(d) The applicant fund manager's relevant experience and demonstrated ability to manage the proposed investment fund;

(e) The location and account number of a bank account that has been established for use by the investment fund;

(f) The exemption or registration provision that is being relied upon or intended to be relied upon by both the investment fund and the investment fund manager to permit this offering of securities and the activity of the investment fund manager in relation to the offering, in compliance with applicable state and federal securities laws and regulations;

(g) A representation that the investment fund and the investment fund manager are and shall remain in compliance with applicable state and federal securities regulations; and

(h) Any additional information the authority deems necessary.

(2) The applicant shall include copies of the following documents as attachments to the application:

(a) The disclosure documents used in connection with the offering and investment in the investment fund;

(b) The disclosure documents provided to each investor which state that:

1. The investor has certain rights, responsibilities, and liabilities pursuant to KRS 154.20-250 to 154.20-284;

2. The Commonwealth shall be immune from liability for any losses or damages investors, investment funds, or investment fund managers may incur pursuant to KRS 154.20-279;

3. No tax credit shall be available under the provision of KRS 154.20-250 to 154.20-284 until the investment fund and the investment fund manager have complied with applicable state and federal securities laws and regulations and have been approved by the authority, and an

agreement has been executed, and the terms of that agreement have been disclosed in writing to each investor; and

4. Investors shall lose all rights to any unused credits allocated to an investment fund that does not make a qualified investment within one (1) year of the date of the agreement with the authority or within any one (1) year period thereafter through the end of the term of the agreement.

An applicant soliciting cash contributions for the initial capitalization of an investment fund, or an investment fund manager soliciting additional cash contributions for an approved investment fund, shall disclose in advance and in writing to each potential investor those items described in this subsection in addition to any other items required by law or by agreement.

(3) The authority shall have, in addition to its other powers provided in this chapter and as otherwise provided by law, all powers and authority, not explicitly prohibited by statute, that are necessary or convenient to carry out and effectuate the purposes, objectives, and provisions of KRS 154.20-250 to 154.20-284, including but not limited to power to:

(a) Require consultation, advisory, and legal fees and other expenses the authority deems necessary or incident to the preparation, adoption, implementation, modification, or enforcement of the terms of any agreement or other document, or otherwise necessary or incident to any transaction;

(b) Require the investment fund manager to pay these fees and expenses directly to the person providing such consultation, advisory, legal, or other services on behalf of the authority; and

(c) Impose and collect fees and charges in connection with any transaction and provide for reasonable penalties for delinquent payment of fees or charges.

Any payments made by an investment fund manager pursuant to this subsection may be passed on to the investment fund manager's investment fund.

(4) An investment fund's stated purpose shall be primarily to encourage and assist in the creation, development, or expansion of small businesses located in Kentucky.

(5) The criteria considered by the authority for the approval of investment fund managers and the maximum amount of credits allocated to the investors of an investment fund shall include but not be limited to:

(a) Compliance by those persons with applicable state and federal securities laws and regulations;

(b) A review of the application;

(c) The investment strategy for the investment fund;

(d) The relevant experience of the applicant fund manager or, if the applicant fund manager is an entity, the applicant's management;

(e) The applicant's demonstrated ability to manage the investment fund; and

(f) The amount of credits requested by the investment fund and the total amount of credits which may be granted to investors under KRS 154.20-258.

(6) Following the making of a qualified investment, the investment fund manager shall within sixty (60) days file a disclosure form with the authority detailing the following information:

(a) The name and address of the small business in which the qualified investment was made;

(b) The amount of the qualified investment; and

(c) The name, address, and Social Security number or employer identification number, as may be applicable, of each investor and the amount of credit allocated to each investor by virtue of the investor's proportional ownership interest in the qualified investment.

(7) An investment fund manager and its affiliates may operate no more than three (3) separate investment funds pursuant to separate applications submitted to and approved by the authority, provided the investment fund manager is in compliance with any applicable state and federal securities laws and regulations as evidenced by a written statement to the authority by an investment fund manager to that effect.

(8) An investment fund manager seeking to expand a previously approved investment fund shall submit to the authority an amended application in a form acceptable to the authority.

(9) An investment fund shall lose all unused credits that are available to its investors if the investment fund does not make a qualified investment within one (1) year of the date of the agreement or within any one (1) year period thereafter through the end of the term of the agreement.

(10) The contents of the information form required under subsections (1), (2), and (6) of this section shall be treated by the authority and by the *Department of* Revenue~~[Cabinet]~~ as confidential and shall not be considered public records under KRS 61.870 to 61.884.

(11) The authority, in consultation with the *Department of* Revenue~~[Cabinet]~~, may establish additional procedures and standards, as it deems necessary for the approval of investment funds and investment fund managers, and for the allocation and granting of investment tax credits by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A.

Section 571. KRS 154.20-258 is amended to read as follows:

(1) An investor shall be entitled to a nonrefundable credit equal to forty percent (40%) of the investor's proportional ownership share of all qualified investments made by its investment fund and verified by the authority. The aggregate tax credit available to any investor shall not exceed forty percent (40%) of the cash contribution made by the investor to its investment fund. The credit may be applied against the income tax imposed by KRS 141.020 or 141.040, the corporation license tax imposed by KRS 136.070, the insurance taxes imposed by KRS 136.320, 136.330, and 304.3-270, and the taxes on financial institutions imposed by KRS 136.300, 136.310, and 136.505.

(2) The tax credit amount that may be claimed by an investor in any tax year shall not exceed fifty percent (50%) of the initial aggregate credit amount approved by the authority for the investment fund which would be proportionally available to the investor. An investor may first claim the credit granted in subsection (1) of this section in the year following the year in which the credit is granted.

(3) If the credit amount that may be claimed in any tax year, as determined under subsections (1) and (2) of this section, exceeds the investor's combined tax liabilities against which the credit may be claimed for that year, the investor may carry the excess tax credit forward until the tax credit is used, but the carry-forward of any excess tax credit shall not increase the fifty percent (50%) limitation established by subsection (2) of this section. Any tax credits not used within fifteen (15) years of the approval by the authority of the aggregate tax credit amount available to the investor shall be lost.

(4) The tax credits allowed by this section shall not apply to any liability an investor may have for interest, penalties, past due taxes, or any other additions to the investor's tax liability. The holder of the tax credit shall assume any and all liabilities and responsibilities of the credit.

(5) The tax credits allowed by this section are not transferable, except that:

(a) A nonprofit entity may transfer, for some or no consideration, any or all of the credits it receives under this section and any related benefits, rights, responsibilities, and liabilities. Within thirty (30) days of the date of any transfer of credits pursuant to this subsection, the nonprofit entity shall notify the authority and the *Department of* Revenue~~[Cabinet]~~ of:

1. The name, address, and Social Security number or employer identification number, as may be applicable, of the party to which the nonprofit entity transferred its credits;

2. The amount of credits transferred; and

3. Any additional information the authority or the *Department of* Revenue~~[Cabinet]~~ deems necessary.

(b) If an investor is an entity and is a party to a merger, acquisition, consolidation, dissolution, liquidation, or similar corporate reorganization, the tax credits shall pass through to the investor's successor.

(c) If an individual investor dies, the tax credits shall pass to the investor's estate or beneficiaries in a manner consistent with the transfer of ownership of the investor's interest in the investment fund.

(6) The tax credit amount that may be claimed by an investor shall reflect only the investor's participation in qualified investments properly reported to the authority by the investment fund manager. No tax credit authorized by this section shall become effective until the *Department of* Revenue~~[Cabinet]~~ receives notification from the authority that includes:

(a) A statement that a qualified investment has been made that is in compliance with KRS 154.20-250 to 154.20-284 and all applicable regulations; and

(b) A list of each investor in the investment fund that owns a portion of the small business in which a qualified investment has been made by virtue of an investment in the investment fund, and each investor's amount of credit granted to the investor for each qualified investment.

The authority shall, within sixty (60) days of approval of credits, notify the *Department of* Revenue~~[Cabinet]~~ of the information required pursuant to this subsection and notify each investor of the amount of credits granted to that investor, and the year the credits may first be claimed.

(7) After the date on which investors in an investment fund have cumulatively received an amount of credits equal to the amount of credits allocated to the investment fund by the authority, no investor shall receive additional credits by virtue of its investment in that investment fund unless the investment fund's allocation of credits is increased by the authority pursuant to an amended application.

(8) The maximum amount of credits to be authorized by the authority shall be three million dollars ($3,000,000) for each of fiscal years 2002-03 and 2003-04.

Section 572. KRS 154.20-260 is amended to read as follows:

(1) To receive the credit provided by KRS 154.20-258, an investor shall claim the credit on the investor's annual state tax returns in the manner prescribed by the *Department of* Revenue~~[Cabinet]~~.

(2) The contents of an investor's filings under subsection (1) of this section shall be treated by the authority and by the *Department of* Revenue~~[Cabinet]~~ as confidential and shall not be considered public records under the Kentucky Open Records Act, KRS 61.870 to 61.884.

Section 573. KRS 154.20-262 is amended to read as follows:

(1) An investment fund that violates the provisions of KRS 154.20-250 to 154.20-284 shall pay to the State Treasurer a penalty in an amount equal to the amount of all credits claimed by the investors when these credits are determined to be derived from unqualified investments, plus interest at the rate of two percent (2%) per month, compounded monthly, from the date the credits were taken. If the investment fund fails to pay the penalty and interest in full as required by the *Department of* Revenue~~[Cabinet]~~, each investor shall be personally liable to the *Department of* Revenue~~[Cabinet]~~ for that investor's share of the unpaid penalty, which shall be determined by the amount of credits received and utilized by the investor and all applicable interest. Any payment of unpaid penalty by an investor shall be included with the investor's state tax return for the period in which the failure or violation occurred. The *commissioner of the Department of Revenue*~~[secretary of the Revenue Cabinet]~~ shall give notice in writing to the authority, the investment fund manager, and the investors of any penalties imposed. The *commissioner of the Department of Revenue*~~[secretary of the Revenue Cabinet]~~ may abate any imposed penalty upon written request, if the investment fund manager establishes reasonable cause for the failure to make qualified investments in small businesses under the provisions of KRS 154.20-250 to 154.20-284, or to otherwise comply with the provisions of KRS 154.20-250 to 154.20-284. The State Treasurer shall deposit any amounts received pursuant to this section in the Commonwealth's general fund.

(2) The administration of this section shall be the responsibility of the *Department of* Revenue~~[Cabinet]~~.

Section 574. KRS 154.20-264 is amended to read as follows:

(1) Each investment fund manager shall file an annual report with the *commissioner of the Department of Revenue*~~[secretary of the Revenue Cabinet]~~ and with the authority, on or before February 15 of each year during which it manages an investment fund. This report shall include information that the authority prescribes from time to time, including but not limited to the following:

(a) For each small business in which qualified investments are made by the investment fund during the reporting period, the name and address of the small business, the amount of qualified investments made by the investment fund, the job creation anticipated and achieved by the small business, and new products and technologies being developed by the small business;

(b) An affidavit prepared by the investment fund manager or, if the investment fund is an entity, by an authorized officer, partner, trustee, member, or manager of the investment fund management firm that states:

1. At the time of each qualified investment, each small business qualifies as a small business under the provisions of KRS 154.20-250 to 154.20-284;

2. The name and address of each investor, and the amount of cash contribution to the investment fund of each investor who is entitled to the credits; and

3. The continued compliance by the investment fund and the investment fund manager with all applicable state and federal securities laws and regulations.

(2) The authority shall provide an annual written status report to the standing Appropriations and Revenue Committee of each house or to the Interim Joint Committee on Appropriations and Revenue, as appropriate, concerning the activities of the Kentucky investment fund for each fiscal year beginning with the fiscal year ended July 30, 2003. On or before November 1 of each year, the authority shall make an annual report for the preceding fiscal year to the Governor, the Legislative Research Commission, and the Kentucky Innovation Commission. The annual report shall include but not be limited to the following information:

(a) The total number of investors and the aggregate amount of committed cash contributions to all investment funds, categorized by the types of business entities through which investors conduct business and the geographical distribution of investors, including the area development districts;

(b) The total number and amounts of qualified investments made by each investment fund to qualified small businesses, categorized by type of businesses, amount of investment, job creation anticipated and achieved, geographical distribution, including area development districts, and new products and technologies developed; and

(c) The total amount of credits granted to investors.

(3) The contents of the annual reports from investment fund managers to the authority described in subsection (1) of this section shall be treated by the authority as confidential, and shall not be considered a public record under the Kentucky Open Records Act, KRS 61.870 to 61.884.

(4) The authority may charge a fee in connection with the administration and processing of an annual report made by an investment fund manager.

Section 575. KRS 154.20-277 is amended to read as follows:

(1) Each investment fund manager shall cause the books and records of the investment fund to be audited on an annual basis by an independent certified public accountant in accordance with generally accepted accounting principles consistently applied. The audit shall address the financial condition of the investment fund and compliance with the provisions of KRS 141.068 and KRS 154.20-250 to 154.20-284. Each year the audit report shall be completed and certified by the independent certified public accountant and delivered to the authority within ninety (90) days after the end of the investment fund's fiscal year.

(2) The authority and the *Department of* Revenue~~[Cabinet]~~, individually or collectively, may examine, under oath, any of the officers, trustees, partners, members, managers, directors, agents, employees, or investors of an investment fund regarding the affairs and business of the investment fund. The authority and the *Department of* Revenue~~[Cabinet]~~, individually or collectively, may issue subpoenas and subpoenas duces tecum and administer oaths. Refusal to obey such a subpoena or subpoena duces tecum may be reported to the Franklin Circuit Court, which shall enforce the subpoena or subpoena duces tecum according to the rules of civil or criminal procedure, as applicable.

(3) In addition to the audits required by this section, the authority or the *Department of* Revenue~~[Cabinet]~~ may audit one (1) or more investment funds or investment fund managers in any year on a random basis or for cause. The authority or the *Department of* Revenue~~[Cabinet]~~ may also audit, for cause, any small business in which an investment fund has made a qualified investment. Nothing in this section shall be construed to prohibit the *Department of* Revenue~~[Cabinet]~~ from conducting any audit relating to the administration or enforcement of the tax laws of the Commonwealth which the *Department of* Revenue~~[Cabinet]~~ determines to be appropriate.

(4) If any audit conducted pursuant to this section discloses that an investment fund or investment fund manager is not in compliance with the provisions of KRS 141.068 and KRS 154.20-250 to 154.20-284, the authority and the *Department of* Revenue~~[Cabinet]~~ may consult with one another with respect to this noncompliance and the *Department of* Revenue~~[Cabinet]~~ may exercise any of its powers to protect the Commonwealth's interest and to enforce the provisions of KRS 141.068 and KRS 154.20-250 to 154.20-284.

(5) The authority may give an investment fund manager written notice of any noncompliance with the provisions of KRS 154.20-250 to 154.20-284 and specify a period of time the investment fund manager shall have to cure any noncompliance. Failure to cure any such noncompliance within the period of time specified by the authority may result in further action by the authority pursuant to this section.

(6) Nothing in this section shall be construed to prohibit the Department of Financial Institutions, Division of Securities, or any other securities regulatory organization or body with jurisdiction over the activity of an investment fund or the investment fund manager from conducting any examination or investigation relating to the securities activities of the investment fund or investment fund manager. If any examination or investigation conducted pursuant to any securities laws or regulations discloses that an investment fund or investment fund manager is not in compliance with any provision of any applicable securities laws or regulations, the appropriate securities regulator may take whatever action it deems appropriate in accordance with such securities laws and regulations to respond to the noncompliance, notwithstanding any action the authority or the *Department of* Revenue~~[Cabinet]~~ may or may not take with respect to the noncompliance.

Section 576. KRS 154.22-050 is amended to read as follows:

The authority may enter into, with any approved company, a tax incentive agreement with respect to its economic development project, upon adoption of a resolution authorizing the tax incentive agreement. Subject to the inclusion of the mandatory provisions set forth below, the terms and provisions of each tax incentive agreement shall be determined by negotiations between the authority and the approved company.

(1) The tax incentive agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.

(2) The approved company shall expend the authorized approved costs for the economic development project within three (3) years of the date of the final approval by the authority.

(3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.

(4) The term of the tax incentive agreement shall commence upon the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or fifteen (15) years after the activation date.

(5) The tax incentive agreement shall include the activation date. To implement the activation date, the approved company shall notify the authority, the *Department of* Revenue~~[Cabinet]~~, and the approved company's employees of the activation date when the implementation of the inducements authorized in the tax incentive agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040(3) by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the fifteen (15) year period for the term of the tax incentive agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040(3) within two (2) years from the date of final approval of the tax incentive agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(6) The tax agreement shall also state that if the total number of new 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) at any time after activation, the authorized inducements shall be suspended for a period of up to one (1) year. If the company does not have at least fifteen (15) new full-time employees at the site who are residents of the Commonwealth and subject to Kentucky income tax within one (1) year from the date of the initial suspension, the inducements may be terminated at the discretion of the authority.

(7) The approved company shall comply with the hourly wage criteria set forth in KRS 154.22-040(4) and provide documentation in connection with hourly wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.

(8) The approved company may be permitted the following inducements during the term of the tax incentive agreement:

(a) A one-hundred percent (100%) credit against the Kentucky income tax that would otherwise be owed in the approved company’s fiscal year, as determined under KRS 141.347, to the Commonwealth by the

approved company on the income of the approved company generated by or arising from the economic development project; and

(b) The aggregate assessments withheld by the approved company in each year.

(9) The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The total inducements may not exceed authorized cumulative approved costs paid by the approved company in the period commencing with the date of final approval.

(10) The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042 on the Kentucky taxable income generated by or arising from the economic development project.

(11) The tax incentive agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(12) The tax incentive agreement shall provide that if an approved company fails to comply with its obligations under the tax incentive agreement then the authority shall have the right, at its option, to:

(a) Suspend the income tax credits and assessments available to the approved company;

(b) Pursue any remedy provided under the tax incentive agreement, including termination thereof; and

(c) Pursue any other remedy at law to which it may be entitled.

(13) All remedies provided in subsection (12) of this section shall be deemed to be cumulative.

Section 577. KRS 154.22-060 is amended to read as follows:

(1) The approved company shall be entitled to a credit against the Kentucky income tax liability mandated by KRS Chapter 141, on any income that may result from the operation of the approved economic development project; the credit shall be equal to the total amount of the tax liability, and together with the aggregate assessments not to exceed the maximum amount of inducements as set forth in the tax incentive agreement.

(2) By October 1 of each year, the *Department of* 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, and assessments taken by approved companies with respect to their economic development projects during the prior calendar year under this subchapter, 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 income tax credits equal to its total inducements.

Section 578. KRS 154.23-040 is amended to read as follows:

(1) Before any approved company engaged in service or technology activity is granted inducements under KRS 154.23-005 to 154.23-079, a service and technology agreement with respect to the approved company's economic development project shall be entered into between the authority and the approved company. The terms and provisions of the service and technology agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, subject to inclusion of the following mandatory provisions:

(a) The term of the service and technology agreement shall commence upon the activation date and shall terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or ten (10) years after the activation date.

(b) The service and technology agreement shall include the activation date, which shall be a date selected by the approved company within two (2) years of the date of final approval by the authority of the service and technology agreement. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.23-025 by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the ten (10) year period for the term of the service and technology agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.23-025 within two (2) years from the date of final approval of the service and technology agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(c) In order to implement the activation date, the approved company shall notify the authority, the Kentucky *Department of* Revenue~~[Cabinet]~~, the qualified statewide employees, and the affected local jurisdictions, if any, of the activation date on which implementation of the inducements authorized in the service and technology agreement shall occur;

(d) The approved company may be permitted the following inducements during the term of the service and technology agreement:

1. An income tax credit of up to one hundred percent (100%) of the Kentucky income tax liability imposed by KRS 141.020 or 141.040 that would otherwise be due, determined under KRS 141.401, on the income of the approved company generated by or arising out of the economic development project, as limited by the provisions of this section and KRS 154.23-045; and

2. The assessment, if applicable, withheld by the approved company in each year;

(e) The inducements allowed to the approved company shall be subtracted from the approved cost balance in the fiscal year of the approved company for which the tax return of the approved company is filed;

(f) If the total number of full-time qualified employees at the site of the economic development project is less than ten (10) or, in the case of an existing business, the approved company fails to maintain the increase of at least ten (10) full-time qualified employees, the authorized inducements shall be suspended for a period of up to one (1) year. If the company does not have at least ten (10) new full-time qualified employees at the site within one (1) year from the date of the initial suspension, the inducements may be terminated at the discretion of the authority;

(g) The service and technology agreement may be assigned by the approved company only upon the prior written consent of the authority; and

(h) The approved company shall pay all costs of counsel to the authority resulting from approval of its economic development project.

(2) Before the end of the first year following the activation date, the authority shall, using data supplied by the approved company, verify and determine the total start-up costs for the approved company's economic development project. The initial approved costs shall be up to a maximum of fifty percent (50%) of the start-up costs.

(3) Each year, during the ten (10) year term of the service and technology agreement, up to fifty percent (50%) of the annualized rent shall be added to the unrecouped balance of approved costs, and the inducements earned shall be subtracted from the approved costs.

(4) If, in any fiscal year of the approved company during which the service and technology agreement is in effect, the accumulated inducements equal the unrecouped remaining balance of the approved costs then expended, the assessments collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax and occupational license fee withholdings from the qualified statewide employees' wages for the remainder of that fiscal year.

(5) If, in any fiscal year of the approved company during which the service and technology agreement is in effect, the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the qualified statewide employees exceeds the remaining balance of the approved costs then expended, the approved company shall pay the excess to the Commonwealth as income tax.

(6) If, in any fiscal year of the approved company during which the service and technology agreement is in effect, the assessment collected from the wages of the qualified statewide employees exceeds the unrecouped remaining balance of the approved costs then expended, the assessment collected from the wages of the qualified statewide employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the qualified statewide employees for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for qualified statewide employees' wages next succeeding the first date when the approved company collected excess assessments.

Section 579. KRS 154.23-050 is amended to read as follows:

(1) An approved company engaged in manufacturing or in service or technology activities shall be entitled to an income tax credit equal to one hundred percent (100%) of the income tax liability that would otherwise be due

to the Commonwealth from the approved company attributable to its economic development project, as limited by the provisions of KRS 154.23-045.

(2) The *Department of* Revenue~~[Cabinet]~~ of the Commonwealth shall initiate contact and fully cooperate with the authority in the collection of information to determine the fiscal impact of qualified zone inducements on state revenues. The *Department of* Revenue~~[Cabinet]~~ shall certify to the authority, in the form of an annual report, aggregate income tax credits and assessments taken by approved companies with respect to their economic development projects under KRS 154.23-005 to 154.23-079, and certify to the authority when an approved company has taken income tax credits and assessments equal to its total inducements. The *Department of* Revenue~~[Cabinet]~~ shall certify to the authority, upon written request of the authority, the aggregate income tax credits and assessments taken by an approved company with respect to its economic development project under KRS 154.23-005 to 154.23-079.

Section 580. KRS 154.24-110 is amended to read as follows:

(1) The approved company shall be entitled to an income tax credit equal to one hundred percent (100%) of the income tax that would otherwise be due to the Commonwealth by the approved company attributable to the economic development project, as limited by the provisions of this section and KRS 154.24-130. The amount of the approved company's income that is attributable to the economic development project shall be determined under KRS 141.407.

(a) The income tax credit allowed to the approved company shall be subtracted from the approved cost balance in the fiscal year of the approved company for which the tax return of the approved company is filed; and

(b) By October 1 of each year, the *Department of* 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, and assessments taken by approved companies with respect to their economic development projects during the prior calendar year under this subchapter, 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 income tax credits and assessments equal to its total inducements.

(2) The approved company or, with the authority's consent, an affiliate of the approved company may require each employee, subject to state tax imposed by KRS 141.020, as a condition of employment, to agree to pay a service and technology job creation assessment fee up to five percent (5%) of the gross wages exclusive of any noncash benefits provided to an employee for each employee whose job has been deemed by the authority to be created as a result of the economic development project, provided that the service and technology job creation assessment fee shall not exceed the amount determined in accordance with KRS 154.24-150(5) if the circumstances in that subsection apply. Where a person is already employed by the approved company at a site other than the site of the economic development project and where that employee is subject to state tax imposed by KRS 141.020, the employee's job shall be deemed to have been created when the employee is transferred to the site of the economic development project, provided that the employee's existing job is filled with a new employee.

(a) Each employee paying the assessment shall be entitled to a credit against his Kentucky income tax required to be withheld under KRS 141.310 equal to four-fifths (4/5) of the assessment;

(b) If the assessment has been approved by the local jurisdiction as provided in KRS 154.24-150, each employee paying the assessment also shall be entitled, in the local jurisdiction in which the economic development project is located, to a credit against his local occupational license fee in the form of a simultaneous adjustment of his local occupational license fee withholding equal to one-fifth (1/5) of the assessment. If more than one (1) local tax is incurred, the one-fifth (1/5) assessment shall be prorated proportionately among the taxes unless one (1) local jurisdiction agrees to forgo the receipt of these taxes in an amount equal to the one-fifth (1/5) assessment, in which case no proration need be made;

(c) If an approved company elects to impose the assessment as a condition of employment, it shall be authorized to deduct the assessment from each payment of wages to the employee;

(d) No credit, or portion thereof, shall be allowed against any occupational license fee imposed by or dedicated solely to the board of education in a local jurisdiction;

(e) The approved company collecting an assessment shall make its payroll, books, and records available to the authority when the authority shall request, and shall file with the authority documentation pertaining to the assessment as the authority may require; and

(f) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project shall permanently cease at the expiration of the agreement.

(3) Notwithstanding subsection (2) of this section, if a local government in which the project is located has a local occupational license fee that is less than one percent (1%) and agrees to forgo all of its local occupational license fee, then the assessment shall be four percent (4%), all of which shall be contributed by the Commonwealth, plus the percentage of the local occupational license fee that the local government has agreed to forgo. Each employee paying the assessment under this subsection shall be entitled to a credit against Kentucky income tax, under KRS 141.350, equal to four percent (4%) and a credit against the local occupational license fee equal to the local occupational license fee that the local jurisdiction has agreed to forgo.

Section 581. 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 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 *Department of* 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 for a period of up to one (1) year. If the company does not have at least fifteen (15) new full-time employees at the site who are residents of the Commonwealth and subject to Kentucky income tax within one (1) year from the date of the initial suspension, the inducements may be terminated at the discretion of the authority;

(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 for a period of up to one (1) year. If the percentage of these services does not exceed seventy-five percent (75%) within one (1) year from the initial date of suspension, the inducements may be terminated at the discretion of the authority; and

(d) A provision that neither income tax credits nor assessments are assignable without written consent by the authority.

Section 582. KRS 154.26-090 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 project. The terms and provisions of each agreement, including the amount of approved costs, the amount of the license tax credit pursuant to KRS 136.0704, and any limitations the authority may deem necessary, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(a) The amount the approved company may recover through inducements under this subchapter shall not exceed seventy-five percent (75%) of approved costs.

(b) 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 the actual cost of 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 the consultant.

(c) In consideration of the execution of the agreement, the approved company may be permitted during the time not to exceed ten (10) years during which the agreement is in effect, which time shall commence on the date of the agreement for purposes of the 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 economic revitalization project as determined under KRS 141.403;

2. A credit against the Kentucky license tax imposed by KRS 136.070 as determined under KRS 136.0704; plus

3. The aggregate assessment withheld by the approved company in each year.

(d) The tax credits allowed to the approved company shall be equal to the lesser of the total amount of the tax liability or the amount that the company may recover under paragraph (a) of this subsection that has not yet been recovered, reduced by any recovery through the collection of assessments and appropriations made under any appropriation agreement. The credit 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 until the amount that the company may recover under paragraph (a) of this subsection has been received through a combination of credits, assessments, if assessments are elected to be imposed, and appropriations made under any appropriation agreement. 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 economic revitalization project. Ninety (90) days after the filing of the tax return of the approved company, the *Department of* Revenue~~[Cabinet]~~ of the Commonwealth shall certify to the authority for the preceding fiscal year of an approved company for which a return was filed with respect to an economic revitalization project of the approved company the state tax liability of the approved company receiving inducements under KRS 154.26-015 to 154.26-100 and the amount of any tax credits taken pursuant to this section.

(e) 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 or withheld assessments equal to the amount that the company may recover under paragraph (a) of this subsection; or

2. Ten (10) years from the date of the execution of the agreement.

(f) Prior to execution of the agreement, the eligible company shall secure from all local governmental authorities responsible for collecting local occupational license fees one (1) of the following:

1. A resolution or order of the local governmental entities acknowledging and consenting to the termination or partial termination of the receipt of local occupational license fees paid by the approved company on behalf of its employees to the local government entities resulting from the execution of the agreement; or

2. In lieu of the credit against the local occupational license fee, an appropriation agreement with the authority and the local governmental entities by which the local governmental entities will appropriate funds in an amount equal to the amount of the credit of the local occupational license fee for the benefit of the approved company in a manner consistent with the applicable state laws.

(g) If more than one (1) local occupational license fee is imposed upon the employees of the approved company, the assessment imposed upon the employees shall be credited against the local occupational license fee and shall be apportioned to each local occupational license fee according to each local occupational license fee's proportion to the total of all local occupational license fees for such employees. No credit, or portion thereof shall be allowed against any local occupational license fee imposed by or dedicated solely to a local board of education.

(h) If in any fiscal year of the approved company during which the agreement is in effect the total of the tax credits granted to the approved company plus the assessment collected from the wages of the employees exceeds the expended portion of the amount that the approved company may recover under paragraph (a) of this subsection, the approved company shall pay the excess to the Commonwealth as income tax.

(i) If in any fiscal year of the approved company during which the agreement is in effect the assessment collected from the wages of the employees exceeds the expended portion of the amount that the approved company may recover under paragraph (a) of this subsection, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees' wages next succeeding the first date when the approved company collected excess assessments.

(j) All proceeds of any loan or other financing incurred in connection with the economic revitalization project shall be expended by the approved company within five (5) years from the date of the revitalization agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic revitalization project are not fully expended within the five (5) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the five (5) year period.

(2) If the approved company elects to utilize the assessment as prescribed in KRS 154.26-100, it shall not assess the wages of an employee who is party to an individual employment contract with the approved company.

(3) Neither the appropriation agreement nor the agreement shall be transferable or assignable by the approved company without the expressed written consent of the authority.

Section 583. KRS 154.26-100 is amended to read as follows:

(1) The approved company may require that each employee subject to the income tax imposed by KRS 141.020, whose job was preserved or created as a result of the project, as a condition of employment or the retention of employment, agree to pay an assessment, not to exceed, during any fiscal year of the approved company, five percent (5%) of the gross wages of each employee subject to the income tax imposed by KRS 141.020 whose job was retained or created as a result of the project, unless:

(a) The appropriation agreement is consummated, in which case the assessment shall be four percent (4%) of each employee's gross wages subject to the income tax imposed by KRS 141.020;

(b) The local government or governments in which the project is located have a local occupational license fee of less than one percent (1%) and agree to forgo all of their local occupational license fee, in which case the assessment shall equal four percent (4%) plus the percentage of the local occupational license fee that the local government or governments have agreed to forgo; or

(c) The local government or governments in which the project is located have no occupational license fee, in which case the assessment shall be four percent (4%).

(2) Each assessed employee shall be entitled to a credit against his Kentucky income tax required to be withheld under KRS 141.310 in the form of a simultaneous adjustment equal to four-fifths (4/5) of the assessment, unless:

(a) The appropriation agreement is consummated, in which case the credit shall be equal to one hundred percent (100%) of the assessment;

(b) The local government or governments in which the project is located have a local occupational license fee of less than one percent (1%) and agree to forgo all of their local occupational license fee, in which case the credit shall be equal to the total assessment less the local occupational license fee; or

(c) If the local government or governments in which the project is located have no local occupational license fee, in which case the credit shall be equal to one hundred percent (100%) of the assessment.

(3) Each assessed employee also shall be entitled to a credit against his local occupational license fee in the form of a simultaneous adjustment of his local occupational license fee withholding equal to one-fifth (1/5) of the assessment, unless:

(a) The appropriation agreement is consummated; or

(b) The local occupational license fee is less than one percent (1%), in which case the credit shall equal the same amount as the local occupational license fee.

(4) If an approved company shall elect to impose the assessment as a condition of employment or the retention of employment, it shall deduct the assessment from each paycheck of each employee subject to subsections (2) and (3) of this section.

(5) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the authority at such reasonable times as the authority shall request, and shall file with the authority the documentation respecting the assessment the authority may require.

(6) Any assessment of the wages of the employees of an approved company pursuant to subsection (1) of this section shall permanently lapse upon expiration or termination of the agreement.

(7) By October 1 of each year, the *Department of* 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 and job revitalization assessment fees taken during the prior calendar year by approved companies with respect to their economic revitalization projects under this subchapter, 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 income tax credits equal to its total inducements.

Section 584. KRS 154.28-090 is amended to read as follows:

The authority, upon adoption of an authorizing resolution, may enter into, with any approved company, an agreement with respect to its economic development 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 agreement shall include the following provisions:

(1) The agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.

(2) The approved company shall expend the authorized approved costs within three (3) years of the date of the final approval by the authority.

(3) The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.

(4) The agreement shall include the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or ten (10) years from the activation date. To implement the activation date, the approved company shall notify the authority, the Kentucky *Department of* Revenue~~[Cabinet]~~, and the approved company's employees of the activation date on which implementation of the inducements authorized in the agreement shall occur. The activation date shall be the time when the maximum dollar value of equipment that constitutes a portion of the economic development project under KRS 154.28-010(11) shall be determined. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the ten (10) year period for the term of the agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) within two (2) years from the date of final approval of the agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(5) The tax agreement shall also state that if the total number of new 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) at any time after activation, the authorized inducements shall be suspended for a period of up to one (1) year. If the company does not have at least fifteen (15) new full-time employees at the site who are residents of the Commonwealth and subject to Kentucky income tax within one (1) year from the date of the initial suspension, the inducements may be terminated at the discretion of the authority.

(6) The approved company shall comply with the wage criteria set forth in KRS 154.28-080(4) and provide documentation in connection with wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.

(7) The approved company may be permitted one of the following inducements during the term of the agreement and shall select the applicable inducement at the time of final approval by the authority:

(a) A one hundred percent (100%) credit against the Kentucky income tax that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.400, to the Commonwealth by the approved company on the income of the approved company generated by or arising from the economic development project; or

(b) The aggregate assessments pursuant to KRS 154.28-110 withheld by the approved company each year.

(8) Either the total income tax credit or assessments may not exceed authorized cumulative approved costs paid by the approved company in the three (3) year period commencing with the date of final approval.

(9) If the approved company elects to use the income tax credit, the income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042 on the Kentucky taxable income generated by or arising from the economic development project.

(10) The agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(11) The agreement shall provide that if an approved company fails to comply with its obligations under the agreement then the authority shall have the right, at its option, to:

(a) Suspend either the income tax credits or assessments available to the approved company, pursuant to subsection (5) of this section;

(b) Pursue any remedy provided under the agreement, including termination thereof; and

(c) Pursue any other remedy at law to which it may be entitled.

(12) All remedies provided in subsection (11) of this section shall be deemed to be cumulative.

(13) By October 1 of each year, the *Department of* Revenue~~[Cabinet]~~ 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 and assessments taken during the prior calendar year by approved companies with respect to their economic development projects under this subchapter, 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 income tax credits or assessments equal to its total inducements.

Section 585. KRS 154.34-080 is amended to read as follows:

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:

(1) 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;

(2) 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:

(a) 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 KRS 141.415;

(b) A credit against the Kentucky license tax imposed by KRS 136.070 on the approved company as determined under KRS 141.416;

(3) 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;

(4) The agreement shall provide that the term shall not be longer than the earlier of:

(a) The date on which the approved company has received inducements equal to the approved costs of its reinvestment project; or

(b) Ten (10) years from the date of final approval granted by the authority;

(5) 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:

(a) Reduce the inducements; or

(b) Suspend the inducements; or

(c) Terminate the agreement;

(6) If the agreement is terminated, the authority may require the approved company to repay the *Department of* Revenue~~[Cabinet]~~ of the Commonwealth all or part of any inducements received by the approved company prior to the termination of the agreement;

(7) 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; and

(8) The agreement shall not be transferred or assigned by the approved company without the expressed written consent of the authority.

Section 586. KRS 154.34-090 is amended to read as follows:

By October 1 of each year, the *Department of* 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 KRS 154.34-010 to 154.34-100, 141.415, and 141.416, 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 587. KRS 154.45-060 is amended to read as follows:

(1) For the purposes of carrying out the provisions of KRS 154.45-020 to 154.45-110, there is created the Enterprise Zone Authority of Kentucky consisting of eleven (11) members. The authority shall be appointed as follows: one (1) member appointed by the Governor from a list of three (3) persons nominated by the Labor Management Advisory Council; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky League of Cities; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky Association of Counties; one (1) member appointed by the Governor who is qualified to represent the interests of Kentucky's small business community; one (1) member appointed by the Governor from a list of three (3) persons nominated by the AFL-CIO of Kentucky; two (2) members appointed by the Governor to serve at large; one (1) member appointed by the Governor from a list of five (5) persons nominated by the secretary of the Cabinet for Economic Development; the secretary of the Cabinet for Economic Development or his designee; the secretary of the *Finance and Administration*~~[Revenue]~~ Cabinet or his designee; and the secretary of the Cabinet for Families and Children or his designee.

(2) Authority members shall serve a term of four (4) years and, except for the secretary of the Cabinet for Economic Development, the secretary of the *Finance and Administration*~~[Revenue]~~ Cabinet, and the secretary of the Cabinet for Families and Children, shall not be eligible to succeed themselves.

(3) The authority shall meet at least four (4) times per year. A majority of the total authority membership shall be required to designate an area as an enterprise zone and to certify businesses as qualified businesses. The authority shall keep official minutes of all meetings. All members shall serve until such time as their successors are qualified and appointed. Each member of the authority shall receive one hundred dollars ($100), not to exceed twelve hundred dollars ($1,200) per calendar year, as compensation for attending official meetings of the authority. Each member of the authority shall be reimbursed for travel expenses actually incurred in the discharge of his duties on the authority.

(4) The Cabinet for Economic Development shall serve as staff for the authority and carry out the administrative duties and functions as directed by the authority.

Section 588. KRS 154.45-070 is amended to read as follows:

The authority shall administer the provisions of KRS 154.45-020 to 154.45-110, and shall:

(1) Establish by administrative regulation a process to monitor compliance by local governments and qualified businesses with the provisions of the Enterprise Zone Program;

(2) Initiate contact and fully cooperate with the *Department of* Revenue~~[Cabinet]~~ in the collection of information to determine the fiscal impact of enterprise zone tax exemptions on state revenues;

(3) Report to the General Assembly no later than October 1 annually regarding:

(a) The authority's method of monitoring the Enterprise Zone Program;

(b) Information on the fiscal impact of enterprise zone tax exemptions on state revenues;

(c) The authority's method of reviewing local incentives;

(d) Information on the number of qualified businesses per zone;

(e) Information on the number of requests for amendments to zone boundaries and the number of amendments granted and denied; and

(f) Recommendations requiring state legislative action;

(4) Revoke designation of an area as an enterprise zone pursuant to the provisions of KRS 154.45-050.

(5) Prohibit the certification of businesses in an enterprise zone if the local government has been notified in writing by the authority of the authority's intent to revoke the local government's designation as an enterprise zone. The prohibition of certification of businesses shall continue until the authority officially revokes the local government's enterprise zone designation, or notifies the local government in writing that the problems cited by the authority have been corrected and the enterprise zone designation shall not be revoked;

(6) Offer technical assistance and job training assistance to local governments, qualified businesses, and neighborhood enterprise association corporations; and

(7) Aggressively review local incentives and commitments on an annual basis.

Section 589. KRS 154.45-110 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~ shall initiate contact and fully cooperate with the authority in the collection of information to determine the fiscal impact of enterprise zone tax exemptions on state revenues.

(2) Report to the General Assembly no later than October 1 annually regarding:

(a) The *department's*~~[cabinet's]~~ method of monitoring the Enterprise Zone Program;

(b) Information on the fiscal impact of enterprise zone tax exemptions on state revenues; and

(c) Recommendations requiring state legislative action.

(3) The *Department of* Revenue~~[Cabinet]~~ shall by administrative regulation amend its sales and use tax return to collect fiscal information on qualified businesses within an enterprise zone for purposes of reporting to the General Assembly.

(4) The *Department of* Revenue~~[Cabinet]~~ shall promulgate administrative regulations to establish a process for the collection of tax information relating to enterprise zone tax exemptions.

Section 590. KRS 156.076 is amended to read as follows:

The chief state school officer shall furnish full information on established price contracts to each district board of education. Any board of education may purchase supplies and equipment from the vendor to whom the contract has been awarded, under the terms of the contract. Any board of education may advertise for its own bids on supplies and equipment which meet the specifications of the contracts awarded by the *Office*~~[Division]~~ of Material and Procurement Services *in the Office of the Controller*. Any board of education, after advertising for bids, may award contracts if the chief state school officer certifies that the bid offers supplies and equipment which meet the standards and specifications fixed by the Kentucky Board of Education and that the bid price is lower than that established by

the price contract agreement. If supplies and equipment that meet the specifications of the contracts awarded by the *Office*~~[Division]~~ of Material and Procurement Services or a federal, local, or cooperative agency are available for purchase elsewhere, a board of education may purchase those supplies and equipment without advertising for bids. However, prior to making the purchases, the board of education shall obtain certification from:

(1) The Department of Education for technology components defined in the master plan for education technology for which standards have been established by the Kentucky Board of Education. The department shall certify that the items to be purchased meet or exceed, at a lower cost, the specifications of the components of the original equipment of manufacturers currently holding Kentucky education technology system price contracts; and

(2) The district's finance officer for supplies and equipment other than that described in subsection (1) of this section. He shall certify that the items to be purchased meet the standards and specifications fixed by state price contract, federal (GSA) price contract, the local school district's bid, or the bid of another school district whose bid specifications allow other districts to utilize their bids, and that the sales price is lower than that established by the price contract agreement or available through the bidding process and the price does not exceed two thousand five hundred dollars ($2,500).

Section 591. KRS 156.666 is amended to read as follows:

(1) There is established the Council for Education Technology which shall be an advisory group attached to the Kentucky Board of Education. The council shall develop a master plan for education technology.

(2) The council shall consist of the *executive director of the Commonwealth Office of Technology*~~[chief information officer]~~, the secretary of the Education, Arts, and Humanities Cabinet, and the president of the Council on Postsecondary Education who shall serve as ex officio voting members and eight (8) voting members appointed by the Governor within thirty (30) days after April 3, 1992. The members shall be as follows:

(a) One (1) member of the Kentucky Board of Education;

(b) One (1) member of the House of Representatives;

(c) One (1) member of the Senate; and

(d) Five (5) citizens of the Commonwealth.

A majority of the membership present at any meeting shall constitute a quorum for the official conduct of business.

(3) Members shall be appointed for four (4) year terms and may be reappointed. The initial members of the board shall be appointed as follows: two (2) members shall be appointed for terms of two (2) years; two (2) members shall be appointed for terms of three (3) years; and four (4) members shall be appointed for terms of four (4) years. Members shall receive no compensation but may be reimbursed for actual and necessary expenses in accordance with state laws and regulations.

(4) Terms of members serving pursuant to KRS 156.665 shall terminate on April 3, 1992.

(5) Immediately upon receiving notice of the appointment of all members, the chief state school officer shall call an organizational meeting. At this meeting the chief state school officer shall preside as temporary chairman, and the council shall elect from among the members a chairman and any other officers it deems necessary, and define the duties of the officers.

(6) Meetings shall be held at least two (2) times per year at a time and place designated by the chairman. The Department of Education shall provide staff support for the council.

(7) The duties and responsibilities of the council shall include, but not be limited to, the following:

(a) Developing a long-range master plan for the efficient and equitable use of technology at all levels from primary school through higher education, including vocational and adult education. The plan shall focus on the technology requirements of classroom instruction, literacy laboratories, student record management, financial and administrative management, distance learning, and communications as they relate to the Commonwealth's outcome goals for students as described in KRS 158.6451;

(b) Creating, overseeing, and monitoring a well-planned and efficient statewide network of technology services designed to meet the educational and informational needs of the schools;

(c) Working with private enterprise to encourage the development of technology products specifically designed to answer Kentucky's educational needs;

(d) Encouraging an environment receptive to technological progress in education throughout the Commonwealth;

(e) Recommending a policy governing the granting of rights-of-way for the laying of fiber optic cable in a manner to insure that all of Kentucky's citizens are served equitably, that the fiber optic system is available for educational technology purposes, and that the private and public sectors are partners in the venture; and

(f) Receiving, holding, investing, and administering all funds received by the council for the purpose of carrying out its duties and responsibilities, as set out in this section. These funds shall be spent with the aim of achieving equality of education throughout the Commonwealth.

Section 592. KRS 157.615 is amended to read as follows:

As used in KRS 157.611 to 157.640, unless the context requires otherwise:

(1) "Available local revenue" means the sum of the school building fund account balance; the bonding potential of the capital outlay and building funds; and the capital outlay fund account balance on June 30 of odd-numbered years. These accounts shall be as defined in the manual for Kentucky school financial accounting systems;

(2) "Board of education" means the governing body of a county school district or an independent school district;

(3) "Bonds" or "bonds of the commission" means bonds issued by the commission, or issued by a city, county, or other agency or instrumentality of the Board of Education, in accordance with KRS Chapter 162, payable as to principal and interest from rentals received from a board of education or from the department pursuant to a lease or from contributions from the commission, and constitute municipal bonds exempt from taxation under the Constitution of the Commonwealth;

(4) "Department" means the State Department of Education;

(5) "District technology plan" means the plan developed by the local district and the Department of Education and approved by the Kentucky Board of Education upon the recommendation of the Council for Education Technology;

(6) "Equivalent tax rate" means the rate which results when the income from all taxes levied by the district for school purposes is divided by the total assessed value of property plus the assessment for motor vehicles certified by the *Department of* Revenue~~[Cabinet]~~ as provided by KRS 160.470;

(7) "Kentucky Education Technology System" means the statewide system set forth in the technology master plan issued by the Kentucky Board of Education with the recommendation of the Council for Education Technology and approved by the Legislative Research Commission;

(8) "Lease" or "lease instrument" means a written instrument for the leasing of one (1) or more school projects executed by the commission as lessor and a board of education as lessee, or executed by the commission as lessor and the department as lessee, as the case may be;

(9) "Lease/purchase agreement" means a lease between the school district or the department and a vendor that includes an option to purchase the technology equipment or software at the end of the lease period;

(10) "Percentage discount" means the degree to which the commission will participate in meeting the bond and interest redemption schedule required to amortize bonds issued by the commission on behalf of a local school district;

(11) "Project" means a defined item of need to construct new facilities or to provide major renovation of existing facilities which is identified on the priority schedule of the approved school facilities plan;

(12) "School facilities plan" means the plan developed pursuant to the survey specified by KRS 157.420 and by administrative regulations of the Kentucky Board of Education;

(13) "Technology master plan" means the long-range plan for the implementation of the Kentucky Education Technology System as developed by the Council for Education Technology and approved by the Kentucky Board of Education and the Legislative Research Commission;

(14) "Unmet facilities need" means the total cost of new construction and major renovation needs as shown by the approved school facilities plan less any available local revenue;

(15) "Unmet technology need" means the total cost of technology need as shown by the approved technology plan of the local district; and

(16) "Eligible district" means any local school district having an unmet facilities need, as defined in this section, in excess of one hundred thousand dollars ($100,000) or a district qualifying for education technology funding.

Section 593. KRS 160.460 is amended to read as follows:

(1) All school taxes shall be levied by the board of education of each school district. The tax-levying authority shall levy an ad valorem tax within the limits prescribed in KRS 160.470, which will obtain for the school district the amount of money needed as shown in the district's general school budget submitted under the provisions of KRS 160.470.

(2) The tax-levying authority shall make an annual school levy not later than July 1. The school levy shall not be made until the general school budget has been received and approved by the Kentucky Board of Education. The failure of the authority to make the levy by the date prescribed shall not invalidate any levy made thereafter.

(3) All school taxes shall be levied on all property subject to local taxation in the jurisdiction of the tax-levying authority. If the school levy is to be made upon the city assessment, which is hereby authorized for independent school districts embraced by cities of the first four (4) classes, the clerk of the city shall furnish to the school district or districts which the city embraces, the assessed valuation of property subject to local taxation in the school district, as determined by its tax assessor. If the school levy is to be made upon the county assessment the county clerk shall furnish to the proper school district or districts the assessed valuation of property subject to local taxation in the district or districts, as certified by the Kentucky *Department of* Revenue~~[Cabinet]~~. No later than July 1, 1994, all real property located in the state and subject to local taxation shall be assessed at one hundred percent (100%) of fair cash value.

Section 594. KRS 160.470 is amended to read as follows:

(1) (a) Notwithstanding any statutory provisions to the contrary, no district board of education shall levy a general tax rate which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the general tax rate that could have been levied in the preceding year to the preceding year's assessment, except as provided in subsection (9) of this section and KRS 157.440.

(b) If an election is held as provided for in KRS 132.017 and the question should fail, such failure shall not reduce the "...general tax rate that could have been levied in the preceding year...," referred to in subsection (1)(a) of this section, for purposes of computing the general tax rate for succeeding years.

In the event of a merger of school districts, the limitations contained in this section shall be based upon the combined revenue of the merging districts, as computed under the provisions of this section.

(2) No district board of education shall levy a general tax rate within the limits imposed in subsection (1) of this section which respectively exceeds the compensating tax rate defined in KRS 132.010, except as provided in subsection (9) of this section, KRS 157.440, and KRS 157.621, until the district board of education has complied with the provisions of subsection (7) of this section.

(3) Upon receipt of property assessments from the *Department of* Revenue~~[Cabinet]~~, the commissioner of education shall certify the following to each district board of education:

(a) The general tax rate that a district board of education could levy under the provisions of subsection (1) of this section, and the amount of revenue expected to be produced;

(b) The compensating tax rate as defined in KRS 132.010 for a district's general tax rate the amount of revenue expected to be produced;

(c) The general tax rate which will produce, respectively, no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, and the amount of revenue expected to be produced.

(4) Upon completion of action on property assessment data, the *Department of* Revenue~~[Cabinet]~~ shall submit certified property assessment data as required in KRS 133.125 to the chief state school officer.

(5) Within thirty (30) days after the district board of education has received its assessment data, the rates levied shall be forwarded to the Kentucky Board of Education for its approval or disapproval. The failure of the district board of education to furnish the rates within the time prescribed shall not invalidate any levy made thereafter.

(6) (a) Each district board of education shall, on or before January 31 of each calendar year, formally and publicly examine detailed line item estimated revenues and proposed expenditures for the subsequent fiscal year. On or before May 30 of each calendar year, each district board of education shall adopt a tentative working budget which shall include a minimum reserve of two percent (2%) of the total budget.

(b) Each district board of education shall submit to the Kentucky Board of Education no later than September 30, a close estimate or working budget which shall conform to the administrative regulations prescribed by the Kentucky Board of Education.

(7) (a) Except as provided in subsection (9) of this section and KRS 157.440, a district board of education proposing to levy a general tax rate within the limits of subsection (1) of this section which exceed the compensating tax rate defined in KRS 132.010 shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The district board of education shall advertise the hearing by causing the following to be published at least twice for two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches:

1. The general tax rate levied in the preceding year, and the revenue produced by that rate;
2. The general tax rate for the current year, and the revenue expected to be produced by that rate;
3. The compensating general tax rate, and the revenue expected from it;
4. The revenue expected from new property and personal property;
5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;
6. A time and place for the public hearing which shall be held not less than seven (7) days nor more than ten (10) days after the day that the second advertisement is published;
7. The purpose of the hearing; and
8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained herein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The district board of education may set reasonable time limits for testimony.

(8) (a) That portion of a general tax rate, except as provided in subsection (9) of this section, KRS 157.440, and KRS 157.621, levied by an action of a district board of education which will produce, respectively, revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be subject to a recall vote or reconsideration by the district board of education as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The district board of education shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a general tax rate, except as provided in subsection (9) of this section and KRS 157.440, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause the following to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches:

1. The fact that the district board of education has adopted such a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and

3. The name, address, and telephone number of the county clerk of the county or urban-county in which the school district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

(9) (a) Notwithstanding any statutory provisions to the contrary, effective for school years beginning after June 30, 1990, the board of education of each school district shall levy a minimum equivalent tax rate of thirty cents ($0.30) for general school purposes. Equivalent tax rate is defined as the rate which results when the income collected during the prior year from all taxes levied by the district for school purposes is divided by the total assessed value of property plus the assessment for motor vehicles certified by the *Department of* Revenue~~[Cabinet]~~. School districts collecting school taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.633, or 160.635 to 160.648 for less than twelve (12) months during a school year shall have included in income collected under this section the pro rata tax collection for twelve (12) months.

(b) If a board fails to comply with paragraph (a) of this subsection, its members shall be subject to removal from office for willful neglect of duty pursuant to KRS 156.132.

Section 595. KRS 160.6131 is amended to read as follows:

As used in KRS 160.613 to 160.617:

(1) *"Department"*~~["Cabinet"]~~ means the *Department of* Revenue~~[Cabinet]~~.

(2) "Communications service" shall have the same meaning as provided in KRS 139.195 but does not include:

(a) Prepaid calling services;

(b) Interstate telephone service, if the interstate charge is separately itemized for each call; and

(c) If the interstate calls are not itemized, the portion of telephone charges identified and set out on the customer's bill as interstate as supported by the provider's books and records.

(3) "Gross cost" means the total cost of utility services including the cost of the tangible personal property and any services associated with obtaining the utility services regardless from whom purchased.

(4) "Gross receipts" means all amounts received in money, credits, property, or other money's worth in any form, as consideration for the furnishing of utility services.

(5) "Utility services" means the furnishing of communications services, electric power, water, and natural, artificial, and mixed gas.

Section 596. KRS 160.627 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~ shall, where that *department*~~[cabinet]~~ is not acting as such, make available to the tax collector, or to the school district, where the *Department of* Revenue~~[Cabinet]~~ is acting as tax collector under subsection (2) of this section, by October 1 of each year, such information as the tax collector or the school district may request concerning the state income tax liability of the school district residents. *This*~~[Such]~~ information shall be made available on a confidential basis as provided in KRS 131.190.

(2) The *Department of* Revenue~~[Cabinet]~~, upon request by a school district, shall act as tax collector for the school tax authorized by KRS 160.621, and the *Department of* Revenue~~[Cabinet]~~, where so acting, KRS 160.625 notwithstanding, may in its own discretion incorporate its tax collecting duties with those relative to collection of state individual income taxes under KRS Chapter 141, thereby making an individual's tax payment hereunder due along with his individual income tax payment and subject to law applicable to such as to time and manner of payment. Tax required to be paid under the provisions of this chapter shall be remitted together with the state income tax return. The *Department of* Revenue~~[Cabinet]~~, when so acting, KRS 160.500 notwithstanding, shall remit school excise taxes collected to the school districts for which it is acting as tax collector in a reasonably timely and expeditious manner.

Section 597. KRS 160.637 is amended to read as follows:

(1) "Requesting school districts" shall mean those school districts for which the *Department of* Revenue~~[Cabinet]~~ is requested to act as tax collector under the authority of KRS 160.627(2).

(2) Reasonable expenses not to exceed the actual costs of collection incurred by any tax collector, except the *Department of* Revenue~~[Cabinet]~~, for the administration or collection of the school taxes authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633 shall be reimbursed by the school district boards of education on a monthly basis or on the basis agreed upon by the boards of education and the tax collector. The expenses shall be borne by the school districts on a basis proportionate to the revenue received by the districts.

(3) The following shall apply only when the *Department of* Revenue~~[Cabinet]~~ is acting as tax collector under the authority of KRS 160.627(2):

(a) When the *department*~~[cabinet]~~ is initially requested to be the tax collector under KRS 160.627(2), the *department*~~[cabinet]~~ shall estimate the costs of implementing the administration of the tax so requested, and shall inform the requesting school district of this estimated cost. The requesting school district shall pay to the *department*~~[cabinet]~~ ten percent (10%) of this estimated cost referred to as "start-up costs" within thirty (30) days of notification by the *department*~~[cabinet]~~. Subsequent requesting school districts shall pay their pro rata share, or ten percent (10%), whichever is less, of the unpaid balance of the initial "start-up costs" until the *department*~~[cabinet]~~ has fully recovered the costs. The payment shall be made within thirty (30) days of notification by the *department*~~[cabinet]~~.

(b) The *Department of* Revenue~~[Cabinet]~~ shall also be reimbursed by each school district for its proportionate share of the actual operational expenses incurred by the *department*~~[cabinet]~~ in collecting the excise tax. The expenses, which shall be deducted by the *Department of* Revenue~~[Cabinet]~~ from payments to school districts made under the provisions of KRS 160.627(2), shall be allocated by the *department*~~[cabinet]~~ to school districts on a basis proportionate to the number of returns processed by the *Department of* Revenue~~[Cabinet]~~ for each district compared to the total processed by the *Department of* Revenue~~[Cabinet]~~ for all districts.

(c) All funds received by the *department*~~[cabinet]~~ under the authority of paragraphs (a) and (b) of this subsection shall be deposited into an account entitled the "school tax fund account," an account created within the restricted fund group set forth in KRS 45.305. The use of these funds shall be restricted to paying the *department*~~[cabinet]~~ for the costs described in paragraphs (a) and (b) of this subsection. This account shall not lapse.

(d) The *department*~~[cabinet]~~ may retain a portion of the school tax revenues collected in a special account entitled the "school tax refund account" which is an account created within the restricted fund group set forth in KRS 45.305. The sole purpose of this account shall be to authorize the *Department of* Revenue~~[Cabinet]~~ to refund school taxes. This account shall not lapse. Refunds shall be made in accordance with the provisions in KRS 134.580(4), and when the taxpayer has made an overpayment or a payment where no tax was due as defined in KRS 134.580(5), within four (4) years of payment.

(e) KRS 160.621 notwithstanding, when the *department*~~[cabinet]~~ is acting as tax collector under the authority of KRS 160.627(2), the requesting school district may enact the tax enumerated in KRS 160.621 only at the following rates: five percent (5%), ten percent (10%), fifteen percent (15%), and twenty percent (20%) on a school district resident's state individual income tax liability as computed under KRS Chapter 141.

(f) Beginning August 1, 1982, any school district which requests the *department*~~[cabinet]~~ to collect taxes under the authority of KRS 160.627(2) shall inform the *department*~~[cabinet]~~ of this request not less than one hundred fifty (150) days prior to January 1.

(g) The *department*~~[cabinet]~~ shall not be required to collect taxes authorized in KRS 160.621 of an individual when the *department*~~[cabinet]~~ is not pursuing collection of that individual's state income taxes. The *department*~~[cabinet]~~ shall not be required to collect or defend the tax set forth in KRS 160.621 in any board or court of this state.

(h) Any overpayments of the tax set forth in KRS 141.020 or payments made when no tax was due may be applied to any tax liability arising under KRS 160.621 before a refund is authorized to the taxpayer. No individual's tax payment shall be credited to the tax set forth in KRS 160.621 until all outstanding state income tax liabilities of that individual have been paid.

(i) KRS 160.510 notwithstanding, the State Auditor shall be the only party authorized to audit the *Department of* Revenue~~[Cabinet]~~ with respect to the performance of its duties under KRS 160.621.

Section 598. KRS 160.640 is amended to read as follows:

Any person having custody of the proceeds of any school tax authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633 shall be required to secure a corporate surety bond in an amount to be set by the Kentucky Board of Education. The cost of the surety bond shall be considered a part of the cost of the administration of the school taxes authorized under KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633.

160.640 Custodian of tax funds to give bond -- Expense, how paid. (Effective July 1, 2005)

Any person having custody of the proceeds of any school tax authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633, except the *Department of* Revenue~~[Cabinet]~~, shall be required to secure a corporate surety bond in an amount to be set by the Kentucky Board of Education. The cost of the surety bond shall be considered a part of the cost of the administration of the school taxes authorized under KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633.

Section 599. KRS 164.357 is amended to read as follows:

(1) There is established as a separate administrative body of state government the Governmental Services Center at Kentucky State University which shall be attached to the *Personnel*~~[Finance and Administration]~~ Cabinet for administrative purposes. The center shall be governed by the Governmental Services Center Authority.

(2) The authority shall consist of the president of Kentucky State University, who shall be chairman, the secretary of the Finance and Administration Cabinet, the secretary of the Personnel Cabinet, two (2) members appointed by the Governor, each of whom shall serve as ex officio voting members of the authority, and two (2) other voting members to be appointed by the chairman of the authority. Appointed members shall be citizens and residents of the Commonwealth of Kentucky. The initial term of one (1) of the members appointed by the chairman shall be for two (2) years, and the initial term of the other appointed member shall be for a term of four (4) years; thereafter, all appointments shall be for terms of four (4) years, but appointed members shall be removable at will by the chairman of the authority.

(3) The Governmental Services Center at Kentucky State University, under direction of the authority, shall be responsible for the development, coordination, content, approval, and implementation of all training, employee development, and related programs conducted for and on behalf of all program cabinets, departments, administrative bodies, and program managers of the state government. The center shall conduct, or cause to be conducted, ongoing management training programs for all program managers and supervisors within the executive branch of state government. The organizational units whose supervisors and managers received training at the center shall share the cost of the training on a pro rata basis. The center shall encourage the enrollment of state employees in academic courses and programs at Kentucky State University. If desired academic courses are not available at the university, and cannot feasibly be developed by the university, other universities and community colleges within the Commonwealth shall be utilized. The authority shall determine the appropriateness of all such programs.

(4) The authority may employ an executive director and other employees necessary to perform the functions of the center in accordance with the provisions of KRS Chapter 18A. The executive director or any staff member of the center may hold concurrently with their employment by the center, and subject to the provisions of KRS 164.360 and 164.365, faculty appointments of appropriate rank at Kentucky State University.

(5) Members of the authority who are not either state or university employees shall be reimbursed for their actual expenses in attending meetings for the authority.

Section 600. KRS 164A.703 is amended to read as follows:

(1) The fund shall be governed by an eleven (11) member board of directors. The board shall have five (5) ex officio voting members including the State Treasurer, the president of the Council on Postsecondary Education or designee, the secretary of the Finance Cabinet or designee,~~[the secretary of the Revenue Cabinet or designee,]~~ the chair of the Association of Independent Kentucky Colleges and Universities or designee, three (3) members appointed by the State Treasurer, and three (3) members appointed by the Governor. The executive director of the Higher Education Assistance Authority or designee shall serve as a nonvoting member. The gubernatorial and State Treasurer appointees shall have experience in finance, accounting, or investment management.

(2) Of the members to be appointed initially by the State Treasurer, one (1) shall be appointed for a three (3) year term, and two (2) shall be appointed for a four (4) year term; of the members to be appointed by the Governor, two (2) shall be appointed for a two (2) year term and one (1) for a three (3) year term. Thereafter, all appointments shall be for terms of four (4) years, except that appointments to fill vacancies shall be for the unexpired terms. No person shall be appointed to serve for more than two (2) successive four (4) year terms. No person holding a full-time office or position of employment with the state, any county or city, or any educational institution shall be eligible for gubernatorial appointment to the board.

(3) Members of the board shall receive no compensation but shall be reimbursed expenses incurred in the performance of their duties at the same per diem and travel rate as is paid the employees of the state.

(4) The State Treasurer shall be the chair and presiding officer of the board. The State Treasurer may appoint other officers as the board may deem advisable or necessary. A majority of the members of the board shall constitute a quorum for the transaction of the business of the fund.

(5) The initial board appointments shall be made by October 1, 2000.

Section 601. 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, *Office of Administrative Services*~~[Department for Administration]~~, Division of Occupations and Professions 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) 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) 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.

(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. 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 602. KRS 171.420 is amended to read as follows:

The State Archives and Records Commission, is hereby created and shall be a seventeen (17) member body constituted as follows: The state librarian or his designee, who shall be the chairman of the commission, secretary of the Education, Arts, and Humanities Cabinet or his designee, the Auditor of Public Accounts or his designee, the Chief Justice of the Supreme Court or his designee, the director of the Legislative Research Commission or his designee, the Attorney General or his designee, the director of the Office for Policy and Management *in the Office of the Controller* or his designee, the *executive director of the Commonwealth Office of Technology*~~[chief information officer]~~ or her or his designee, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the University of Kentucky, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Historical Society, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Library Association, one (1) member

appointed by the Governor from a list of seven (7) persons with one (1) name submitted by each of the presidents of the state universities and colleges, four (4) citizens at large, and one (1) member appointed by the Governor from a list of three (3) persons, with one (1) name submitted by each of the presidents of the Kentucky League of Cities, the Kentucky Association of Counties, and the Kentucky Association of School Administrators. Vacancies shall be filled by the Governor in the same manner as initial appointments are made. All members shall serve for a term of four (4) years, provided that one (1) of the initial appointments shall be for a term of four (4) years, one (1) for three (3) years, one (1) for two (2) years, and one (1) for one (1) year. The commission shall advise the Department for Libraries and Archives on matters relating to archives and records management. The commission shall have the authority to review and approve schedules for retention and destruction of records submitted by state and local agencies. In all cases, the commission shall determine questions which relate to destruction of public records, and their decision shall be binding on the parties concerned and final, except that the commission may reconsider or modify its actions upon the agreement of a simple majority of the membership present and voting.

Section 603. KRS 175.810 is amended to read as follows:

The Transportation Cabinet shall certify to the *commissioner*~~[secretary]~~ of the *Department of* Revenue~~[Cabinet]~~ by October 1 of each fiscal year the amount required for lease rental payments to the Kentucky Turnpike Authority for economic development road projects. Upon receiving such certification, the *commissioner*~~[secretary]~~ of the *Department of* Revenue~~[Cabinet]~~ shall cause said amount to be deposited from road fund receipts to the credit of the economic development road account, hereby created, in the transportation fund (road fund). Such taxes collected in excess of the amount required to be deposited to the economic development road account in the transportation fund (road fund) shall be deposited by the *Department of* Revenue~~[Cabinet]~~ to the credit of the transportation fund (road fund).

Section 604. KRS 179.720 is amended to read as follows:

(1) Upon the creation of a subdivision road district as provided in KRS 179.700 to 179.735, the trustees of such district are hereby authorized to levy a tax rate upon the property in said district, provided that said property is subject to county tax, and not exceeding ten cents ($0.10) per one hundred dollars ($100) of valuation as assessed for county taxes, for the purpose of defraying the expenses of the maintenance of roads within the subdivision district. The rate set in this subsection shall apply, notwithstanding the provisions of KRS 132.023.

(2) The trustees of a district may contract with the county containing the district to perform maintenance on or to provide personnel, materials or equipment for maintenance to be performed upon any road in the district. The county may maintain or provide personnel, materials or equipment for the maintenance of the roads of a district, so long as the district agrees to pay the county's total cost of providing services, personnel, materials or equipment.

(3) The property valuation administrator of the county or counties involved, with the cooperation of the board of trustees, shall note on the tax rolls the taxpayers and valuation of the property subject to such assessment. The county clerk shall compute the tax on the regular state and county tax bills in such manner as may be directed by regulation of the *Department of* Revenue~~[Cabinet]~~.

(4) Such taxes shall be subject to the same delinquency date, discounts, penalties and interest as are applied to the collection of ad valorem taxes and shall be collected by the sheriff of the county or counties involved and accounted for to the treasurer of the district. The sheriff shall be entitled to a fee of four percent (4%) of the amount collected by him.

Section 605. KRS 186.025 is amended to read as follows:

Effective January 1, 1981, the Transportation Cabinet shall, by April 1 of each year, provide the *Department of* Revenue~~[Cabinet]~~ with a listing of all owners of motor vehicles registered in Kentucky on an anniversary basis under KRS 186.051 as of the preceding January 1. *The*~~[Such]~~ listing shall be by counties and shall contain, in addition to the name of the owners, the owners' addresses, and the make, model and year of all vehicles owned by the registrants. The county clerk shall continue to provide copies of motor vehicle registration certificates on all motor vehicles not registered under the provisions of KRS 186.051.

Section 606. KRS 186.232 is amended to read as follows:

(1) The county clerk shall not transfer the registration on any motor vehicle or trailer against which a tax lien has been filed until the taxes have been paid and the lien has been released.

(2) The county clerk shall not transfer the registration of any motor vehicle unless the transferee presents proof of insurance in compliance with KRS 304.39-080 and KRS 186.190.

(3) If a notarized affidavit is required and available under KRS 138.450, the county clerk shall not transfer the registration of a motor vehicle unless the notarized affidavit attesting to the total and actual consideration paid or to be paid for the motor vehicle is presented to the clerk at the time of the transfer. If a notarized affidavit is required but is not available, the county clerk shall contact the *Department of* Revenue~~[Cabinet]~~ to determine the "retail price" of the vehicle and any taxes due prior to transferring the vehicle.

Section 607. KRS 186.655 is amended to read as follows:

(1) Before any owner or operator of a trailer, semitrailer, or recreational vehicle may operate upon the highways, the owner shall apply for registration to the county clerk of the county in which he resides or in which the vehicles are principally operated. The application shall be retained by the clerk and shall be accompanied by:

(a) A manufacturer's certificate of origin, if the application is for the registration of a new trailer, semitrailer, or recreational vehicle;

(b) The owner's registration receipt, if the trailer, semitrailer, or recreational vehicle was last registered in this state;

(c) A bill of sale and the previous registration receipt, if last registered in another state that does not require the owner of a trailer, semitrailer, or recreational vehicle to obtain a certificate of title or ownership;

(d) A certificate of title, if last registered in another state that requires the owner of a trailer, semitrailer, or recreational vehicle to obtain a certificate of title or ownership;

(e) An affidavit from the owner of a trailer, semitrailer, or recreational vehicle assembled or constructed for his personal use on the highways; or

(f) An affidavit from the owner of a trailer, semitrailer, or recreational vehicle where the bill of sale for the vehicle has been lost, destroyed, or stolen.

(2) The affidavit required in paragraph (e) of subsection (1) of this section shall contain the owner's name, address, date, brief description, and a statement that the trailer was constructed by the owner for use on the highways and additional information the cabinet may require by administrative regulation promulgated pursuant to KRS Chapter 13A.

(3) The affidavit required in paragraph (f) of subsection (1) of this section shall contain the owner's name, address, date, make, year made, serial or identification number, name of the person from whom purchased, date of purchase, a statement that the person making the affidavit is the sole owner, the circumstances under which the bill of sale was lost, destroyed, or stolen, and additional information the cabinet may require by administrative regulation promulgated pursuant to KRS Chapter 13A.

(4) After initial registration of his vehicles in this state, the owner shall register his trailer, semitrailer, or recreational vehicle on or before April 1 of each year. Registration with the clerk shall be deemed to be registration with the cabinet.

(5) A county clerk or other officer shall not issue license tags to the owner of a recreational vehicle when it is offered for registration in this state, unless the owner presents a tax receipt from the seller verifying that the Kentucky sales tax has been paid. If the owner is unable to present evidence of payment of tax, he shall furnish to the clerk a bill of sale indicating the purchase price of the recreational vehicle on which price the sales tax shall be assessed. If he cannot furnish a bill of sale indicating the purchase price, the clerk shall assess the value in accordance with information prescribed by the *Department of* Revenue~~[Cabinet]~~. The clerk shall collect the tax, deduct a fee of five percent (5%) of the amount collected and remit the balance to the *Department of* Revenue~~[Cabinet]~~.

Section 608. KRS 186A.015 is amended to read as follows:

(1) Except as provided for in KRS 235.050, the titling and registration of motorboats as defined in KRS 235.010 shall be administered through the automated motor vehicle and trailer registration and titling system developed and implemented under the provisions of KRS 186A.010.

(2) The Transportation Cabinet, the Natural Resources and Environmental Protection Cabinet, the *Department of* Revenue~~[Cabinet]~~, and all other agencies of state government affected by the system are hereby directed to cooperate in the orderly implementation of this system.

(3) The Transportation Cabinet, as far as practicable, and not inconsistent with the provisions of KRS Chapter 235, shall promulgate administrative regulations requiring the procedures for boat titling and registration to be

consistent with motor vehicle titling and registration. These administrative regulations may pertain but shall not be limited to the following:

(a) Conditions and characteristics of certificate of title forms;

(b) Comparison and identification of hull identification numbers;

(c) Application for title or registration;

(d) Processing of title applications;

(e) Form of certificate of title;

(f) Notation of security interests or title;

(g) Title lien statements;

(h) Transfer of boat ownership;

(i) Duplicate certificate of title or registration; and

(j) Salvage titles.

Section 609. KRS 186A.025 is amended to read as follows:

(1) (a) The Finance and Administration Cabinet shall have full responsibility and authority for day-to-day administration of the automated system described by this chapter; and

(b) May request the assistance of any cabinet or department of state government in carrying out its responsibilities under this chapter.

(2) The *Commonwealth Office of*~~[Governor's Office for]~~ Technology shall assure, to the extent feasible, twenty-four (24) hour, year-round information support to the Department of State Police, and to other law enforcement agencies state and nationwide, regarding vehicles registered and, when required, titled in this state.

Section 610. KRS 186A.030 is amended to read as follows:

In order to improve collection of personal property (ad valorem) taxes associated with motor vehicles and trailers, the Department of Vehicle Regulation, in cooperation with the *Department of* Revenue~~[Cabinet]~~, shall:

(1) Ensure that the automated system provided by this chapter is capable of properly assigning a value for each vehicle registered in a county, utilizing a value reference manual in machine readable form approved by the *Department of* Revenue~~[Cabinet]~~, and a manually entered value for vehicles not shown in such "manual."

(2) Promptly study the feasibility of computing personal property (ad valorem) taxes associated with motor vehicles or trailers, and producing tax bills or notices of taxes due in such regard, and if shown feasible to its satisfaction, implement such capability, or any part thereof, as expeditiously as practicable.

(3) Ensure that the automated system is capable of receiving the record of a lien for unpaid personal property (ad valorem) taxes associated with an owner of a motor vehicle or trailer. No motor vehicle dealer shall be responsible for the payment of a tax lien on a motor vehicle which is received as trade-in or otherwise obtained by the dealer.

Section 611. KRS 186A.040 is amended to read as follows:

(1) The Department of Vehicle Regulation shall provide and receive information on the insurance status of vehicles registered in the Commonwealth of Kentucky pursuant to KRS 304.39-087 and 304.39-085. The department shall provide appropriate insurance information to the *Commonwealth Office of*~~[Governor's Office for]~~ Technology for inclusion in the AVIS database to assist in identifying uninsured motor vehicles.

(2) (a) Upon notification to the Department of Vehicle Regulation from an insurance company of cancellation or nonrenewal of a policy pursuant to KRS 304.39-085, or on and after January 1, 2006, if the vehicle identification number (VIN) of a personal motor vehicle does not appear in the database created by KRS 304.39-087 for two (2) consecutive reporting months, the department shall immediately make a determination as to the notification of the insured. Notification to the insured shall state that the insured's policy is no longer valid and that the insured shall have thirty (30) days to show proof of insurance to the county clerk. The department shall further inform the insured that if evidence of insurance is not received within thirty (30) days the department shall revoke the registration of the motor vehicle until:

1. The person presents proof of insurance to the county clerk and pays the reinstatement fee required by KRS 186.180;

2. The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the inoperable condition of the motor vehicle;

3. The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the seasonal nature of the vehicle. The affidavit shall explain that when the vehicle is out of dormancy and when the seasonal use of the vehicle is resumed, the proper security will be obtained; or

4. The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that he or she requires a registered motor vehicle in order to carry out his or her employment and that the motor vehicle that he or she drives during the course of his or her employment meets the security requirement of subtitle 39 of KRS Chapter 304. The person shall also declare in the affidavit that he or she will operate a motor vehicle only in the course of his or her employment. If a person has his or her motor vehicle registration revoked in accordance with this subsection three (3) times within any twelve (12) month period, the revocations shall constitute a violation of KRS 304.39-080. The department shall notify the county attorney to begin prosecution for violation of subtitle 39 of KRS Chapter 304.

(b) The Department of Vehicle Regulation shall be responsible for notification to the appropriate county attorney that a motor vehicle is not properly insured, if the insured does not respond to notification set out by paragraph (a) of this subsection. The notice that the department gives to the county attorney in accordance with paragraph (a) of this subsection shall include a certified copy of the person's driving record which shall include:

1. The notice that the department received from an insurance company that a person's motor vehicle insurance policy has been canceled or has not been renewed; and

2. A dated notice that the department sent to the person requiring the person to present proof of insurance to the county clerk.

Upon notification by the department, a county attorney shall immediately begin prosecution of the person who had his or her motor vehicle registration revoked three (3) times within any twelve (12) month period in accordance with paragraph (a) of this subsection.

(c) The certified copies sent by the department described in paragraph (b) of this subsection, shall be prima facie evidence of a violation of KRS 304.39-080.

(d) If the insured provides proof of insurance to the clerk within the thirty (30) day notification period, the department shall ensure action is taken to denote a valid insurance policy is in force.

(3) (a) In developing the mechanism to electronically transfer information pursuant to KRS 304.39-087, the commissioner of the Department of Vehicle Regulation shall consult with the commissioner of the Department of Insurance and insurers of personal motor vehicles to adopt a standardized system of organizing, recording, and transferring the information so as to minimize insurer administrative expenses. The commissioner shall to the maximum extent possible utilize nationally recognized electronic data information systems such as those developed by the American National Standards Institute or the American Association of Motor Vehicle Administrators.

(b) Notwithstanding any other provision of law, information obtained by the department pursuant to KRS 304.39-087 shall not be subject to the Kentucky Open Records Act, KRS 61.872 to 61.884, and shall not be disclosed, used, sold, accessed, utilized in any manner, or released by the department to any person, corporation, or state and local agency, except in response to a specific individual request for the information authorized pursuant to the federal Driver's Privacy Protection Act, 18 U.S.C. secs. 2721 et seq. The department shall institute measures to ensure that only authorized persons are permitted to access the information for the purposes specified by this section. Persons who knowingly release or disclose information from the database created by KRS 304.39-087 for a purpose other than those described as authorized by this section or to a person not entitled to receive it shall be guilty of a Class A misdemeanor for each release or disclosure.

Section 612. KRS 186A.060 is amended to read as follows:

The Department of Vehicle Regulation is directed to develop, in cooperation with county clerks, auto dealers, and the *Department of* Revenue~~[Cabinet]~~, and Departments of Insurance and State Police, the forms required to record all information pertinent to the initial registration, or titling and taxation, or transfer of registration or title of a vehicle. The Department of Vehicle Regulation shall make every effort to minimize and reduce the amount of paperwork required to apply for, or transfer, a vehicle title. When possible, the title document itself shall be used as the primary form used to effect a transfer of vehicle ownership. When no in-state title exists, then forms shall be designed by the department that require only the appropriate and essential information to effect the application for title. The department shall constantly review the information needs of government agencies and other organizations with the goal of reducing, or eliminating, unnecessary documentation. Information being sought for application for title relevant to, but not limited to, vehicle identification, owner, buyer, usage tax, county clerk or inspector shall be set forth by the cabinet in such a way as to promote flexibility in reaching this goal, except that an applicant for a motor vehicle title shall not be required to provide his or her social security number as part of the application process. The use of an electronic medium shall be employed so that forms can be printed by the automated system. Existing statutory language in this chapter and KRS Chapter 186 pertaining to application, signature, forms, or application transfer record may be construed to be electronic in nature at the discretion of the cabinet as provided for by administrative regulation. Any person who knowingly enters, or attests to the entry of, false or erroneous information in pursuit of a certificate of title shall be guilty of forgery in the second degree.

Section 613. KRS 186A.285 is amended to read as follows:

(1) No person shall, without prior specific written approval of the commissioner of the Department of Vehicle Regulation and the *executive director of the Commonwealth Office of Technology*~~[chief information officer]~~, connect with the automated vehicle registration and titling system, directly or indirectly, by wire, electronic, electromagnetic induction, systemic, or any other means, any device, system or apparatus capable of putting information or electronic signals into, or receiving information or electronic signals from, or blocking, diverting, or altering transmission of data or signals within, the automated vehicle registration and titling system, its components, and its communications network.

(2) This section does not apply to or prohibit connection of devices or systems to the automated vehicle registration and titling system by persons who are acting in accordance with a contract or agreement with the Commonwealth of Kentucky, which in addition to any other required approval, has been approved in writing by the commissioner of the Department of Vehicle Regulation and the *executive director of the Commonwealth Office of Technology*~~[chief information officer]~~.

Section 614. KRS 186A.290 is amended to read as follows:

(1) Regardless of other provisions of the statutes, the county clerk may omit sending duplicates of each certificate of title and registration, or certificate of registration he issues, to the Transportation Cabinet and *Department of* Revenue~~[Cabinet]~~, and the property valuation administrator, and may omit the production and filing of one of the copies formerly known as either county clerk's alpha or his numeric copy, when it is determined by the agencies indicated that their need for "duplicates" of each certificate or "receipt" is obviated by the automated system.

(2) The Department of Vehicle Regulation and the *Department of* Revenue~~[Cabinet]~~ shall, as agreed between them, provide appropriate system support or computerized listings on magnetic tape or disc, printouts, or system access, to fulfill the information needs formerly requiring duplicates of each certificate or receipt.

Section 615. KRS 186A.295 is amended to read as follows:

(1) (a) Any person or entity having a motor vehicle or trailer that has been destroyed, to the extent that its repair cannot be obtained through usual commercial repair services, at a cost less than its retail value as established from a value manual approved by the *Department of* Revenue~~[Cabinet]~~, or from which two (2) or more parts which typically bear a vehicle identification number placed thereon by the manufacturer have been removed, or which he removes, shall surrender the certificate of title for such vehicle for which he has a certificate of title in his or another name, to the county clerk of the county in which such vehicle is located. The clerk shall immediately forward the surrendered title to Frankfort with instructions for canceling the title.

(b) Any person or entity engaged in the sale of used motor vehicle or trailer parts, or the recycling or salvage of them, shall surrender the certificate of title for any vehicle in his possession, and for which he has a certificate of title, whether in his or another name, if such vehicle is destroyed within the meaning

of paragraph (a) of this subsection, or from which two (2) or more parts which typically bear a vehicle identification number placed thereon by a manufacturer have been removed, or which he removes, to the county clerk of the county in which such vehicle is located. The clerk shall immediately forward the surrendered title to Frankfort with instructions for canceling the title.

(c) The surrender of the certificate of title pursuant to this section shall be made within ten (10) working days, next succeeding the day when such vehicle was received, destroyed, or next succeeding the day during which such second part was removed.

(2) Each county clerk shall receive without charge, a certificate surrendered in accordance with this section, cancel it, and remit it to the Department of Vehicle Regulation, and take any other action related to it, as required by the Department of Vehicle Regulation.

Section 616. KRS 190.040 is amended to read as follows:

(1) A license may be denied, suspended, or revoked on the following grounds:

(a) Proof of financial or moral unfitness of applicant;

(b) Material misstatement in application for license;

(c) Filing a materially false or fraudulent tax return as certified by the *Department of* Revenue~~[Cabinet]~~;

(d) Willful failure to comply with any provision of this chapter or any administrative regulation promulgated under this chapter;

(e) Willfully defrauding any retail buyer to the buyer's damage;

(f) Willful failure to perform any written agreement with any buyer;

(g) Failure or refusal to furnish and keep in force any bond required;

(h) Having made a fraudulent sale, transaction, or repossession;

(i) False or misleading advertising;

(j) Fraudulent misrepresentation, circumvention, or concealment through subterfuge or device of any of the material particulars or the nature of them required to be stated or furnished to the retail buyer;

(k) Employment of fraudulent devices, methods, or practices in connection with compliance with the requirements under the statutes of this state with respect to the retaking of goods under retail installment contracts and the redemption and resale of goods;

(l) Having violated any law relating to the sale, distribution, or financing of motor vehicles;

(m) Being a manufacturer of motor vehicles, factory branch, distributor, field representative, officer, agent, or any representative of the motor vehicle manufacturer or factory branch, who has induced, coerced, or attempted to induce or coerce any automobile dealer to accept delivery of any motor vehicle, vehicles, parts, accessories, or any other commodities that shall not have been ordered by the dealer;

(n) Being a manufacturer of motor vehicles, factory branch, distributor, field representative, officer, agent, or any representative of a motor vehicle manufacturer or factory branch, who has attempted to induce or coerce, or has induced or coerced, any automobile dealer to enter into any agreement with a manufacturer, factory branch, or representative, or to do any other act unfair to the dealer, by threatening to cancel any franchise existing between a manufacturer, factory branch, or representative and the dealer;

(o) Being a manufacturer, factory branch, distributor, field representative, officer, agent, or any representative of a motor vehicle manufacturer or factory branch, who has unfairly, without due regard to the equities of the dealer and without just provocation, canceled the franchise of any motor vehicle dealer. The nonrenewal of a franchise or selling agreement without just provocation or cause shall be deemed an evasion of this section and shall constitute an unfair cancellation;

(p) Being a manufacturer, factory branch, distributor, field representative, officer, agent, or any representative of a motor vehicle manufacturer or factory branch, or wholesaler who makes, attempts to make, or aids or abets the making of a sale of a motor vehicle to a person other than a licensed motor vehicle dealer. This section shall not prevent any manufacturer from offering discounts or rebates on any motor vehicle to any of its employees; or

(q) Being a dealer who advertises for sale a new motor vehicle unless he is a dealer operating under a franchise with a licensed manufacturer, factory branch, or distributor authorizing the sale of the new motor vehicle being advertised.

(2) The licensor may deny the application for a license within thirty (30) days after receipt thereof by written notice to the applicant, stating the grounds for denial. Upon request by the applicant whose license has been denied, the licensor shall set the time and place of hearing a review of denial, to be conducted in accordance with KRS Chapter 13B.

(3) A license shall not be suspended or revoked except after a hearing conducted in accordance with KRS Chapter 13B.

(4) The commission may inspect the pertinent books, letters, records, and contracts of a licensee.

(5) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension, or revocation of a license that any officer, director, or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending, or revoking a license to the party as an individual. Each licensee shall be responsible for the acts of any or all of his salesmen while acting as his agent, if the licensee approved of or had knowledge of the acts and after approval or knowledge retained the benefit, proceeds, profits, or advantages accruing from the acts.

(6) Any licensee or other person in interest who is dissatisfied with a final order of the commission may appeal to the Franklin Circuit Court and to the Court of Appeals in the manner provided by KRS Chapter 13B.

Section 617. KRS 194B.102 is amended to read as follows:

(1) There is hereby created the "Statewide Strategic Planning Committee for Children in Placement" which is administratively attached to the Department for Community Based Services. The committee shall be composed of the following:

(a) Members who shall serve by virtue of their positions: the secretary of the Cabinet for Families and Children or the secretary's designee, the commissioner of the Department for Public Health, the commissioner of the Department for Mental Health and Mental Retardation Services, the commissioner for the Department for Medicaid Services, the commissioner of the Department for Community Based Services, the commissioner of the Department of Juvenile Justice, the commissioner of the Department of Education, the executive director of the Administrative Office of the Courts, or their designees; and

(b) One (1) foster parent selected by the statewide organization for foster parents, one (1) District Judge selected by the Chief Justice of the Kentucky Supreme Court, one (1) parent of a child in placement at the time of appointment to be selected by the secretary of the Cabinet for Families and Children, one (1) youth in placement at the time of the appointment to be selected by the secretary of the Cabinet for Families and Children, and one (1) private child care provider selected by the statewide organization for private child care providers. These members shall serve a term of two (2) years, and may be reappointed.

(2) The Statewide Strategic Planning Committee for Children in Placement shall, by July 1, 1999, develop a statewide strategic plan for the coordination and delivery of care and services to children in placement and their families. The plan shall be submitted to the Governor, the Chief Justice of the Supreme Court, and the Legislative Research Commission on or before July 1, 1999, and each July 1 thereafter.

(3) The strategic plan shall, at a minimum, include:

(a) A mission statement;

(b) Measurable goals;

(c) Principles;

(d) Strategies and objectives; and

(e) Benchmarks.

(4) The planning horizon shall be three (3) years. The plan shall be updated on an annual basis. Strategic plan updates shall include data and statistical information comparing plan benchmarks to actual services and care provided.

(5) The Statewide Strategic Planning Committee for Children in Placement shall, in consultation with the commissioner and the statewide placement coordinator as provided for in KRS 199.801, establish a statewide facilities and services plan that identifies the location of existing facilities and services for children in placement, identifies unmet needs, and develops strategies to meet the needs. The planning horizon shall be five (5) years. The plan shall be updated on an annual basis. The plan shall be used to guide, direct, and, if necessary, restrict the development of new facilities and services, the expansion of existing facilities and services, and the geographic location of placement alternatives.

(6) The Statewide Strategic Planning Committee for Children in Placement may, through the promulgation of administrative regulations, establish a process that results in the review and approval or denial of the development of new facilities and services, the expansion of existing facilities and services, and the geographic location of any facilities and services for children in placement in accordance with the statewide facilities and services plan. Any process established shall include adequate due process rights for individuals and entities seeking to develop new services, construct new facilities, or expand existing facilities, and shall require the involvement of local communities and other resource providers in those communities.

(7) As a part of the statewide strategic plan, and in consultation with the *Commonwealth Office of*~~[Governor's Office for]~~ Technology, the Statewide Strategic Planning Committee for Children in Placement shall plan for the development or integration of information systems that will allow information to be shared across agencies and entities, so that relevant data will follow a child through the system regardless of the entity or agency that is responsible for the child. The data produced shall be used to establish and monitor the benchmarks required by subsection (3) of this section. The data system shall, at a minimum, produce the following information on a monthly basis:

(a) Number of placements per child;

(b) Reasons for placement disruptions;

(c) Length of time between removal and establishment of permanency;

(d) Reabuse or reoffense rates;

(e) Fatality rates;

(f) Injury and hospitalization rates;

(g) Health care provision rates;

(h) Educational achievement rates;

(i) Multiple placement rates;

(j) Sibling placement rates;

(k) Ethnicity matching rates;

(l) Family maintenance and preservation rate; and

(m) Adoption disruption rates.

(8) The Statewide Strategic Planning Committee for Children in Placement shall publish an annual report no later than December 1 of each year that includes, but is not limited to, the information outlined in subsection (7) of this section.

Section 618. KRS 197.120 is amended to read as follows:

(1) The Department of Corrections may enter into contracts with any other state agency for the use and employment of prisoners who may be eligible for the assignments. The contracts shall specifically set forth the compensation to be paid to the Department of Corrections for the use and employment of the prisoners, for the payment of the expenses of transporting, guarding, housing, disciplining, and maintaining the prisoners while so employed. The amount to be paid shall be certified by the contracting parties to the Finance and Administration Cabinet at the end of each month and shall be charged to the appropriation of the agency liable for the payment thereof and credited to the budget of the department to be disbursed and expended as it directs. Any contract may provide for a fixed per diem compensation to be paid to the department for each day's work performed by the prisoner and the department shall pay, out of the per diem compensation, the expenses of transporting, guarding, disciplining, housing, and maintaining prisoners as may be provided in the contracts.

(2) The Department of Corrections shall not enter into any contract with the *Department of* Revenue~~[Cabinet]~~ for the use or employment of prisoners in any capacity that allows prisoners access to taxpayer information, including, but not limited to, tax returns, informational reporting returns, social security numbers, telephone numbers, or addresses.

Section 619. KRS 197.210 is amended to read as follows:

(1) (a) On and after June 17, 1954, all offices, departments, institutions, agencies, and all political subdivisions which are supported in whole or in part by the Commonwealth shall purchase, when economically feasible, from the department all articles or products required which are produced or manufactured by prison labor, as provided by KRS 197.200 to 197.250. No article or product shall be purchased by any office, department, institution, or agency, from any source except as specified in this subsection.

(b) Exceptions may be made in any case where, in the opinion of the Finance and Administration Cabinet, the articles or products produced or manufactured do not meet the reasonable requirements of the offices, departments, institutions, agencies, or where the requisition cannot be reasonably complied with because of an insufficient supply of the articles or products required. However, no office, department, institution, or agency shall be allowed to evade the intent and meaning of KRS 197.200 to 197.250 by slight variations from standards adopted by the *Office*~~[Division]~~ of Material and Procurement Services *within the Office of the Controller*, when the articles or products produced or manufactured by the department in accordance with the standards, are reasonably adapted to the actual needs of the office, department, institution, or agency.

(2) All purchases under KRS 197.200 to 197.250 shall be made through the Finance and Administration Cabinet upon requisition by the proper authority of the office, department, institution, agency, or political subdivision of the Commonwealth.

Section 620. KRS 198A.030 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 which shall be a public body corporate and politic to be known as the Kentucky Housing Corporation.

(2) The Kentucky Housing Corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions and purposes in improving and otherwise promoting the health and general welfare of the people by the production of residential housing in Kentucky.

(3) The corporation shall be governed by a board of directors, consisting of *thirteen (13)*~~[fourteen (14)]~~ members, *five (5)*~~[six (6)]~~ of whom shall be the Lieutenant Governor, the secretary of the Finance and Administration Cabinet, the commissioner of the Department for Local Government,~~[the secretary of the Revenue Cabinet,]~~ the Attorney General, and the secretary of the Cabinet for Economic Development, or their duly appointed designees, as public directors, and eight (8) private directors who shall be appointed by the Governor, subject to confirmation by the Senate as provided by KRS 11.160, as follows:

(a) One (1) private director representing the interests of financial lending institutions located within the Commonwealth;

(b) One (1) private director representing the interests of the manufactured housing industry within the Commonwealth;

(c) One (1) private director representing the interests of real estate practitioners licensed by the Kentucky Real Estate Commission;

(d) One (1) private director representing the interests of the homeless population within the Commonwealth;

(e) One (1) private director representing the interests of local government;

(f) One (1) private director representing the interests of the home construction industry in the Commonwealth;

(g) One (1) private director representing the interests of consumers in the Commonwealth; and

(h) One (1) private director representing the interests of the Kentucky State Building Trades Council.

(4) Private directors appointed by the Governor may include previous members of the board, and members may be reappointed for successive terms. All appointments shall be for four (4) years, and the appointees shall serve until a qualified successor is appointed.

(5) In case of a vacancy, the Governor may appoint a person for the vacancy to hold office during the remainder of the term. A vacancy shall be filled in accordance with the requirement and procedures for appointments.

(6) The Governor may remove any private director whom he may appoint in case of incompetency, neglect of duty, gross immorality, or malfeasance in office; and he may declare his office vacant and may appoint a person for the vacancy as provided in this section.

(7) The Governor shall designate a director of the corporation to serve as chairman. The term of the chairman shall extend to the earlier of either the date of expiration of his then current term as a director of the corporation or a date six (6) months after the expiration of the then current term of the Governor designating the chairman.

(8) The board of directors shall annually elect one (1) of its members as vice chairman. The board of directors shall also elect or appoint, and prescribe the duties of, other officers the board of directors deems necessary or advisable, including an executive director and a secretary, and the board of directors shall fix the compensation of the officers.

(9) 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 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 shall have authority to cause copies to be made of all minutes and other records and documents of the corporation and to give certificates under the official seal of the corporation to the effect that copies are true copies, and all persons dealing with the corporation may rely upon the certificates.

(10) A majority of the board of directors of the corporation shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. A majority shall be determined by excluding any existing vacancies from the total number of directors.

(11) Action shall be taken by the corporation upon a vote of a majority of the directors present at a meeting at which a quorum shall exist called upon three (3) days' written notice to each director or upon the concurrence of at least eight (8) directors.

(12) Each private director shall be entitled to a fee of one hundred dollars ($100) for attendance at each meeting of the board of directors or duly called committee meeting of the board.

Section 621. KRS 205.769 is amended to read as follows:

(1) In cases deemed appropriate pursuant to established guidelines, the cabinet shall refer for federal income tax refund offset and state income tax refund offset verified amounts which are owed for overdue child support and maintenance amounts that are included in the same support order as child support. The cabinet shall refer for federal income tax refund offset and state income tax refund offset verified amounts which are owed for medical support, when the medical support arrearage accrued is based on a medical support order for a specified dollar amount.

(2) In nonpublic assistance cases, the custodial parent shall be notified in advance if any offset amount will be first used to satisfy any unreimbursed public assistance payments which have been provided to the family.

(3) Written notice in advance shall be provided the obligor of the referral for state income tax refund offset, together with the opportunity to contest the referral pursuant to procedures which are in compliance with the state's procedural due process requirements.

(4) If the offset amount is found to be in error or to exceed the amount of overdue support, the cabinet shall promptly refund the excess amount pursuant to established procedures.

(5) The cabinet may charge a reasonable fee to cover the cost of collecting overdue support using the state tax refund offset.

(6) The *Department of* Revenue~~[Cabinet]~~ shall notify the cabinet of the parent's home address and Social Security number or numbers. The cabinet shall provide this information to any other state involved in enforcing the support order.

(7) The cabinet has the unfettered right to intercept federal income tax refunds and state income tax refunds, pursuant to 45 C.F.R. 303.72 and KRS 131.560 to 131.595, to satisfy all child support, maintenance, and medical support arrearages due the cabinet or its assignee.

Section 622. KRS 205.7695 is amended to read as follows:

The Cabinet for Families and Children and the *Department of* Revenue~~[Cabinet]~~ shall work together to develop a system of information sharing for the effective and efficient collection of child support payments. Any requirement included in KRS Chapter 131, 205, 403, or 405 or any other law for either *the* cabinet *or the department* for the confidentiality of individual personal and financial records shall not be violated in the process of this coordination.

Section 623. KRS 205.778 is amended to read as follows:

(1) When the cabinet determines that the name, record address, and either Social Security number or taxpayer identification number of an account with a financial institution matches the name, record address, and either the Social Security number or taxpayer identification number of a noncustodial parent who owes past-due support, a lien or levy shall, subject to the provision of subsection (3) of this section, arise against the assets in the account at the time of receipt of the notice by the financial institution at which the account is maintained. The cabinet shall provide a notice of the match, the lien or levy arising therefrom, and the action to be taken to block or encumber the account with the lien or levy for child support payment to the individual identified and the financial institution holding the account. The financial institution shall have no obligation to hold, encumber, or surrender assets in any account based on a match until it is served with a notice of lien or order to withhold and deliver.

(2) The cabinet shall provide notice to the individual subject to a child support lien or levy on assets in an account held by a financial institution by sending them a notice of the lien or levy to withhold and deliver within two (2) business days of the date that notice is sent to the financial institution.

(3) A financial institution ordered to block or encumber an account shall be entitled to collect its normally scheduled account activity fees to maintain the account during the period of time the account is blocked or encumbered.

(4) Any levy issued on an identified account by the Cabinet for Families and Children for past-due child support shall have first priority over any other lien or levy issued by the *Department of* Revenue~~[Cabinet]~~ or any other agency, corporation, or association.

Section 624. KRS 209.160 is amended to read as follows:

There is hereby created a trust and agency account in the State Treasury to be known as the spouse abuse shelter fund. Each county clerk shall remit to the fund, by the tenth of the month, ten dollars ($10) from each twenty-four dollars ($24) collected during the previous month from the issuance of marriage licenses. The fund shall be administered by the *Department of* Revenue~~[Cabinet]~~. The Cabinet for Families and Children shall use the funds for the purpose of providing protective shelter services for spouse abuse victims.

Section 625. KRS 211.390 is amended to read as follows:

(1) "Fluidized bed energy production facility" shall mean a fluidized bed combustion unit, installed in a plant facility located in this state, which is fueled by Kentucky coal and which employs fluidized bed combustion technology, installed on or after August 1, 1986, to burn said coal for the purpose of producing thermal, mechanical or electrical energy. The energy produced through the employment of the fluidized bed combustion technology must constitute the major energy source for the primary operations of the plant facility.

(2) "Fluidized bed combustion technology tax exemption certificate" shall mean that certificate issued by the *Department of* Revenue~~[Cabinet]~~ pursuant to KRS 211.392.

Section 626. KRS 211.392 is amended to read as follows:

(1) Application for a fluidized bed combustion technology tax exemption certificate shall be filed with the *Department of* Revenue~~[Cabinet]~~ in the manner and form prescribed by the *Department of* Revenue~~[Cabinet]~~ and shall contain plans and specifications of the fluidized bed combustion unit including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of installing a fluidized bed combustion unit to reduce the sulfur emissions from coal combustion and any additional information deemed useful by the *Department of* Revenue~~[Cabinet]~~ for the proper administration of this section. If the *Department of* Revenue~~[Cabinet]~~ finds that the facility

qualifies as a fluidized bed energy production facility, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.

(2) Before the denial, revocation, or modification of a fluidized bed combustion technology tax exemption certificate, the *Department of* Revenue~~[Cabinet]~~ shall give the applicant written notice and shall afford the applicant an opportunity for a conference. The conference shall take place within sixty (60) days following notification. The *Department of* Revenue~~[Cabinet]~~ shall on its own initiative revoke the certificate when any of the following appears:

(a) The certificate was obtained by fraud or misrepresentation;

(b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the fluidized bed combustion unit; or

(c) The fluidized combustion unit to which the certificate relates has ceased to be the major energy source for the primary operations of the plant facility.

(3) If the circumstances so require, the *Department of* Revenue~~[Cabinet]~~, in lieu of revoking the certificate, may modify it.

(4) On mailing of notice of the action of the *Department of* Revenue~~[Cabinet]~~ revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.

(5) A fluidized bed combustion technology tax exemption certificate, when issued, shall be sent by certified mail to the applicant. Notice of an order of the *Department of* Revenue~~[Cabinet]~~ denying, revoking, or modifying a certificate in the form of certified copies shall be sent by certified mail to the applicant or the holder.

(6) The applicant or holder of the certificate aggrieved by the refusal to issue, revocation, or modification of a fluidized bed combustion technology tax exemption certificate may appeal from the final ruling of the *Department of* Revenue~~[Cabinet]~~ to the Kentucky Board of Tax Appeals as provided in KRS 131.340.

(7) In the event of the sale, lease, or other transfer of a fluidized bed combustion unit, not involving a different location or use, the holder of the fluidized bed construction technology tax exemption certificate for the facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on the facilities. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as the date of transfer, together with a copy of the instrument of transfer to the *Department of* Revenue~~[Cabinet]~~.

(8) In the event a fluidized bed combustion unit for which an exemption certificate is held ceases to be used for the purpose of generating energy or is used for a purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to the *Department of* Revenue~~[Cabinet]~~.

(9) The fluidized bed combustion technology tax exemption certificate, upon approval, shall exempt the facilities from taxes outlined in the provision of this section and KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of eight (8) years from the date of issuance and at the end of said period shall lapse. Any fluidized bed combustion unit previously exempt under the terms of this section shall not be eligible for recertification upon completion of the eight (8) year certificate period.

Section 627. KRS 218A.202 is amended to read as follows:

(1) The Cabinet for Health Services shall establish an electronic system for monitoring Schedules II, III, IV, and V controlled substances that are dispensed within the Commonwealth by a practitioner or pharmacist or dispensed to an address within the Commonwealth by a pharmacy that has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy.

(2) A practitioner or a pharmacist shall not have to pay a fee or tax specifically dedicated to the operation of the system.

(3) Every dispenser within the Commonwealth or any other dispenser who has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy shall report to the Cabinet for Health Services the data required by this section in a timely manner as prescribed by the cabinet except that reporting shall not be required for:

(a) A drug administered directly to a patient; or

(b) A drug dispensed by a practitioner at a facility licensed by the cabinet provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours.

(4) Data for each controlled substance that is dispensed shall include but not be limited to the following:

(a) Patient identifier;

(b) Drug dispensed;

(c) Date of dispensing;

(d) Quantity dispensed;

(e) Prescriber; and

(f) Dispenser.

(5) The data shall be provided in the electronic format specified by the Cabinet for Health Services unless a waiver has been granted by the cabinet to an individual dispenser. The cabinet shall establish acceptable error tolerance rates for data. Dispensers shall ensure that reports fall within these tolerances. Incomplete or inaccurate data shall be corrected upon notification by the cabinet if the dispenser exceeds these error tolerance rates.

(6) The Cabinet for Health Services shall be authorized to provide data to:

(a) A designated representative of a board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;

(b) A Kentucky peace officer certified pursuant to KRS 15.380 to 15.404, a certified or full-time peace officer of another state, or a federal peace officer whose duty is to enforce the laws of this Commonwealth, of another state, or of the United States relating to drugs and who is engaged in a bona fide specific investigation involving a designated person;

(c) A state-operated Medicaid program;

(d) A properly convened grand jury pursuant to a subpoena properly issued for the records;

(e) A practitioner or pharmacist who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient;

(f) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Medical Licensure, for any physician who is:

1. Associated in a partnership or other business entity with a physician who is already under investigation by the Board of Medical Licensure for improper prescribing practices;

2. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing may be occurring; or

3. In a designated geographic area for which a report on another physician in that area indicates a substantial likelihood that inappropriate prescribing may be occurring in that area; or

(g) A judge or a probation or parole officer administering a diversion or probation program of a criminal defendant arising out of a violation of this chapter or of a criminal defendant who is documented by the court as a substance abuser who is eligible to participate in a court-ordered drug diversion or probation program.

(7) The Department for Medicaid Services may use any data or reports from the system for the purpose of identifying Medicaid recipients whose usage of controlled substances may be appropriately managed by a single outpatient pharmacy or primary care physician.

(8) A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except by order of a court of competent jurisdiction, except that:

(a) A peace officer specified in subsection (6)(b) of this section who is authorized to receive data or a report may share that information with other peace officers specified in subsection (6)(b) of this section authorized to receive data or a report if the peace officers specified in subsection (6)(b) of this section

are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this paragraph shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been given or received. This document shall be maintained in a file by each law enforcement agency engaged in the investigation; and

(b) A representative of the Department for Medicaid Services may share data or reports regarding overutilization by Medicaid recipients with a board designated in paragraph (a) of subsection (6) of this section, or with a law enforcement officer designated in paragraph (b) of subsection (6) of this section; and

(c) The Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.

(9) The Cabinet for Health Services, all peace officers specified in subsection (6)(b) of this section, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.

(10) The data and any report obtained therefrom shall not be a public record, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.

(11) Knowing failure by a dispenser to transmit data to the cabinet as required by subsection (3), (4), or (5) of this section shall be a Class A misdemeanor.

(12) Knowing disclosure of transmitted data to a person not authorized by subsection (6) to subsection (8) of this section or authorized by KRS 315.121, or obtaining information under this section not relating to a bona fide specific investigation, shall be a Class D felony.

(13) The *Commonwealth Office of*~~[Governor's Office for]~~ Technology, in consultation with the Cabinet for Health Services, shall submit an application to the United States Department of Justice for a drug diversion grant to fund a pilot project to study a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances. The pilot project shall:

(a) Be conducted in two (2) rural counties that have an interactive real-time electronic information system in place for monitoring patient utilization of health and social services through a federally funded community access program; and

(b) Study the use of an interactive system that includes a relational data base with query capability.

(14) Provisions in this section that relate to data collection, disclosure, access, and penalties shall apply to the pilot project authorized under subsection (13) of this section.

(15) The Cabinet for Health Services may limit the length of time that data remain in the electronic system. Any data removed from the system shall be archived and subject to retrieval within a reasonable time after a request from a person authorized to review data under this section.

(16) (a) The Cabinet for Health Services shall work with each board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances for the development of a continuing education program about the purposes and uses of the electronic system for monitoring established in this section.

(b) The cabinet shall work with the Kentucky Bar Association for the development of a continuing education program for attorneys about the purposes and uses of the electronic system for monitoring established in this section.

(c) The cabinet shall work with the Justice Cabinet for the development of a continuing education program for law enforcement officers about the purposes and users of the electronic system for monitoring established in this section.

Section 628. KRS 224.01-310 is amended to read as follows:

(1) Application for a pollution control tax exemption certificate shall be filed with the *Department of* Revenue~~[Cabinet]~~ in such manner and in such form as may be prescribed by regulations issued by the *Department of* Revenue~~[Cabinet]~~ and shall contain plans and specifications of the structure or structures including all

materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of air, noise, waste or water pollution control and any additional information deemed necessary by the *Department of* Revenue~~[Cabinet]~~ for the proper administration of Acts 1974, Chapter 137. The cabinet shall provide technical assistance and factual information as requested in writing by the *Department of* Revenue~~[Cabinet]~~. If the *Department of* Revenue~~[Cabinet]~~ finds that the facility qualifies as a pollution control facility as defined in KRS 224.01-300(1), it shall enter a finding and issue a certificate to that effect. The effective date of said certificate shall be the date of the making of the application for such certificate.

(2) Before issuing a pollution control tax exemption certificate, the *Department of* Revenue~~[Cabinet]~~ shall give notice in writing by mail to the secretary of the cabinet, and shall afford to the applicant and to the secretary of the cabinet an opportunity for a hearing. On like notice and opportunity for a hearing, the *Department of* Revenue~~[Cabinet]~~ shall on its own initiative revoke such certificate whenever any of the following appears:

(a) The certificate was obtained by fraud or misrepresentation;

(b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the pollution control facilities;

(c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of pollution control and is being used for a different purpose.

(3) Provided, however, that where the circumstances so require, the *Department of* Revenue~~[Cabinet]~~ in lieu of revoking such certificate may modify the same.

(4) On the mailing of notice of the action of the *Department of* Revenue~~[Cabinet]~~ revoking or modifying a certificate as provided in subsection (5) of this section, such certificate shall cease to be in force or shall remain in force only as modified as the case may require.

(5) A pollution control tax exemption certificate, when issued, shall be sent by certified mail to the applicant and notice of such issuance in the form of certified copies thereof shall be sent to the secretary of the cabinet. Notice of an order of the *Department of* Revenue~~[Cabinet]~~ denying, revoking, or modifying a certificate in the form of certified copies thereof shall be sent by certified mail to the applicant or the holder thereof and shall be sent to the secretary of the cabinet. The applicant or holder and the secretary of the cabinet are deemed parties for the purpose of the review afforded by subsection (6) of this section.

(6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of a pollution control tax exemption certificate may appeal from the final ruling of the *Department of* Revenue~~[Cabinet]~~ to the Kentucky Board of Tax Appeals as provided in KRS 131.340.

(7) In the event of the sale, lease, or other transfer of a pollution control facility, not involving a different location or use, the holder of a pollution control tax exemption certificate for such facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on such facility. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as of the date of transfer of the facility or the date of transfer of the certificate, whichever is earlier. The transferee shall give written notice of the effective date of the transfer, together with a copy of the instrument of transfer to the cabinet and to the *Department of* Revenue~~[Cabinet]~~.

(8) In the event a pollution control facility for which an exemption certificate is held ceases to be used for the primary purpose of pollution control or is used for a different purpose than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to the cabinet and to the *Department of* Revenue~~[Cabinet]~~.

Section 629. KRS 224.50-868 is amended to read as follows:

(1) Until July 31, 2006, a person purchasing a new motor vehicle tire in Kentucky shall pay to the retailer a one dollar ($1) fee at the time of the purchase of that tire. A new tire is a tire that has never been placed on a motor vehicle wheel rim, but it is not a tire placed on a motor vehicle prior to its original retail sale or a recapped tire. The term "motor vehicle" as used in this section shall mean "motor vehicle" as defined in KRS 138.450. The fee shall not be subject to the Kentucky sales tax.

(2) When a person purchases a new motor vehicle tire in Kentucky to replace another tire, the tire that is replaced becomes a waste tire subject to the waste tire program. The person purchasing the new motor vehicle tire shall either offer the retailer that waste tire or meet the following requirements:

(a) Dispose of the waste tire in accordance with KRS 224.50-856(1);

(b) Deliver the waste tire to a person registered in accordance with the waste tire program; or

(c) Reuse the waste tire for its original intended purpose or an agricultural purpose.

(3) A retailer shall report to the *Department of* Revenue~~[Cabinet]~~ on or before the twentieth day of each month the number of new motor vehicle tires sold during the preceding month and the number of waste tires received from customers that month. The report shall be filed on forms and contain information as the *Department of* Revenue~~[Cabinet]~~ may require. The retailer shall remit with the report ninety-five percent (95%) of the fees collected for the preceding month and may retain a five percent (5%) handling fee.

(4) A retailer shall:

(a) Accept from the purchaser of a new tire, if offered, for each new motor vehicle tire sold, a waste tire of similar size and type; and

(b) Post notice at the place where retail sales are made that state law requires the retailer to accept, if offered, a waste tire for each new motor vehicle tire sold and that a person purchasing a new motor vehicle tire to replace another tire shall comply with subsection (2) of this section. The notice shall also include the following wording: "State law requires a new tire buyer to pay one dollar ($1) for each new tire purchased. The money is collected and used by the state to oversee the management of waste tires, including cleaning up abandoned waste tire piles and preventing illegal dumping of waste tires."

(5) A retailer shall comply with the requirements of the recordkeeping system for waste tires established by KRS 224.50-874.

(6) A retailer shall transfer waste tires only to a person who presents a letter from the cabinet approving the registration issued under KRS 224.50-858 or a copy of a solid waste disposal facility permit issued by the cabinet, unless the retailer is delivering the waste tires to a destination outside Kentucky and the waste tires will remain in the retailer's possession until they reach that destination.

Section 630. KRS 224.50-870 is amended to read as follows:

The *Department of* Revenue~~[Cabinet]~~ shall transfer monthly fees collected pursuant to KRS 224.50-868 to the State Treasury, for deposit into the waste tire trust fund established by KRS 224.50-880. All assessment and collection powers conveyed to the *Department of* Revenue~~[Cabinet]~~ for the assessment and collection of taxes shall apply to the assessment and collection of the fees. The *Department of* Revenue~~[Cabinet]~~ shall be reimbursed from the waste tire trust fund for its costs incurred in assessing and collecting the fees, with the reimbursement not to exceed fifty thousand dollars ($50,000) per year.

Section 631. KRS 224.50-880 is amended to read as follows:

(1) A waste tire trust fund is established in the state treasury. The fund shall be used by the cabinet for the following purposes:

(a) Properly managing waste tires;

(b) Paying the cabinet's costs in implementing the waste tire program to include costs associated with any waste tire amnesty program established by the cabinet that permits waste tires to be turned in without incurring fees, charges, or penalties;

(c) Paying the *Department of Revenue's*~~[Revenue Cabinet's]~~ costs of assessing and collecting the fee established by KRS 224.50-868;

(d) Entering into the agreements described in KRS 224.50-876; and

(e) Awarding the grants described in KRS 224.50-878.

(2) All interest earned on money in the fund shall be credited to the fund.

(3) Money unexpended at the end of a fiscal year shall not lapse to the general fund.

(4) Any money remaining in the waste tire trust fund established by KRS 224.50-820 shall be transferred to the fund established by this section.

Section 632. KRS 224.60-145 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, there is established a petroleum environmental assurance fee to be paid by dealers on each gallon of gasoline and special fuels received in this state.

(2) All deductions detailed in KRS 138.240(2), gasoline and special fuels sold for agricultural purposes, and special fuels sold exclusively to heat a personal residence are exempt from the fee. If a dealer has on file, pursuant to KRS Chapter 138, a statement supporting a claimed exemption, an additional statement shall not be required for claiming exemption from the fee.

(3) The fee shall be reported and paid to the *Department of* Revenue~~[Cabinet]~~ at the same time and in the same manner as is required for the reporting and payment of the gasoline and special fuels taxes as provided by law.

(4) The petroleum environmental assurance fee shall be set at one and four-tenths cent ($0.014) for each gallon. Four-tenths of a cent ($0.004) per gallon shall be deposited in the financial responsibility account and one cent ($0.01) shall be deposited in the petroleum storage tank account.

(5) Within thirty (30) days of the close of fiscal year 2001-2002 and each fiscal year thereafter, the state budget director shall review the balance of each account to determine if a surplus exists. "Surplus" means funds in excess of the amounts necessary to satisfy the obligations in each account for all eligible facilities, to satisfy future liabilities and expenses necessary to operate each account, and to maintain an appropriate reserve in the financial responsibility account to demonstrate financial responsibility and compensate for third-party claims. The state budget director shall report the determination to the Interim Joint Committee on Appropriations and Revenue. After a determination that a surplus exists, the surplus shall be transferred to a restricted account and retained until appropriated by the General Assembly.

(6) All provisions of law related to the *Department of Revenue's*~~[Revenue Cabinet's]~~ administration and enforcement of the gasoline and special fuels tax and all other powers generally conveyed to the *Department of* Revenue~~[Cabinet]~~ by the Kentucky Revised Statutes for the assessment and collection of taxes shall apply with regard to the fee levied by KRS 224.60-105 to 224.60-160.

(7) The *Department of* Revenue~~[Cabinet]~~ shall refund the fee imposed by KRS 224.60-145(1) to any person who paid the fee provided they are entitled to a refund of motor fuel tax under KRS 138.344 to KRS 138.355 and to any person who paid the fee on transactions exempted under KRS 224.60-145(2).

(8) Notwithstanding any other provisions of KRS 65.180, 65.182, 68.600 to 68.606, 139.470, 183.165, 224.60-115, 224.60-130, 224.60-137, 224.60-140, 224.60-142, and this section to the contrary, the small operator assistance account and small operator tank removal account established under KRS 224.60-130 shall continue in effect until July 15, 2008, and thereafter until all eligible claims related to tanks registered by that date are resolved, and sufficient money shall be allocated to and maintained in that account to assure prompt payment of all eligible claims, and to provide for removal of tanks for eligible owners and operators as directed by this chapter.

Section 633. KRS 230.300 is amended to read as follows:

(1) Any person desiring to conduct horse racing at a horse race meeting within the Commonwealth of Kentucky or to engage in simulcasting and intertrack wagering as a receiving track during any calendar year shall first apply to the authority for a license to do so. The application shall be filed at the authority's general office on or before October 1 of the preceding year with respect to applications to conduct live horse race meetings, and with respect to intertrack wagering dates, and on forms prescribed by the authority. The application shall include the following information:

(a) The full name and address of the person making application;

(b) The location of the place, track, or enclosure where the applicant proposes to conduct horse racing meetings;

(c) The dates on which the applicant intends to conduct horse racing, which shall be successive days unless authorized by the authority;

(d) The proposed hours of each racing day and the number of races to be conducted;

(e) The names and addresses of all principals associated with the applicant or licensee;

(f) The type of organizational structure under which the applicant operates, i.e., partnership, trust, association, limited liability company, or corporation, and the address of the principal place of business of the organization;

(g) Any criminal activities in any jurisdiction for which any individual listed under paragraphs (a) and (e) has been arrested or indicted and the disposition of the charges, and any current or on-going criminal investigation of which any of these individuals is the subject; and

(h) Any other information that the authority by administrative regulation deems relevant and necessary to determine the fitness of the applicant to receive a license, including fingerprints of any individual listed under paragraphs (a) and (e), if necessary for proper identification of the individual or a determination of suitability to be associated with a licensed racing association.

(2) An application for license shall be accompanied by the following documents:

(a) For a new license applicant, a financial statement prepared and attested to by a certified public accountant in accordance with generally accepted accounting principles, showing the following:

1. The net worth of the applicant;

2. Any debts or financial obligations owed by the applicant and the persons to whom owed; and

3. The proposed or current financing structure for the operation and the sources of financing.

(b) For a license renewal applicant, an audited financial statement for the prior year;

(c) A copy of the applicant's federal and state tax return for the previous year. Tax returns submitted in accordance with this provision shall be treated as confidential;

(d) A statement from the *Department of* Revenue~~[Cabinet]~~ that there are no delinquent taxes or other financial obligations owed by the applicant to the state or any of its agencies or departments;

(e) A statement from the county treasurer of the county in which the applicant conducts or proposes to conduct horse racing meetings that there are no delinquent real or personal property taxes owed by the applicant.

(3) The completed application shall be signed by the applicant or the chief executive officer if the applicant is an organization, sworn under oath that the information is true, accurate, and complete, and the application shall be notarized.

(4) If there is any change in any information submitted in the application process, the applicant or licensee shall notify the authority within thirty (30) days of the change.

(5) The authority shall as soon as practicable, but in no event later than November 1 in any calendar year, award dates for racing in the Commonwealth during the next year. In awarding dates, the authority shall consider and seek to preserve each track's usual and customary dates, as these dates are requested. If dates other than the usual and customary dates are requested, the applicant shall include a statement in its application setting forth the reasons the requested dates are sought. Dates for the conduct of intertrack wagering shall be awarded as provided in KRS 230.377. In the event scheduled racing is canceled by reason of flood, fire, inclement weather, or other natural disaster or emergency, the authority may award after November 1 additional racing dates to make up for those dates canceled.

(6) The authority may issue a license to conduct a horse race meeting to any association making the aforesaid application if the applicant meets the requirements established in KRS 138.530 and other applicable provisions of this chapter, and if the authority finds that the proposed conduct of racing by the association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the Commonwealth.

(7) As a condition precedent to the issuance of a license, the authority may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth, together with the payment of operating expenses including purses and awards to owners of horses participating in races.

(8) Every license issued under this chapter shall specify among other things the name of the person to whom issued, the address and location of the track where the horse race meeting to which it relates is to be held or conducted, and the days and hours of the day when the meeting will be permitted; provided, however, that no track that is granted overlapping dates for the conduct of a live race meeting with another horse racing track within a fifty (50) mile radius shall be permitted to have a post time after 5:30 p.m., prevailing time for overlapping days between July 1 and September 15, unless agreed to in writing by the tracks affected.

(9) A license issued under this section is neither transferable nor assignable and shall not permit the conduct of a horse race meeting at any track not specified therein. However, if the track specified becomes unsuitable for racing because of flood, fire, or other catastrophe, the authority may, upon application, authorize the meeting, or any remaining portion thereof, to be conducted at any other suitable track available for that purpose, provided that the owner of the track willingly consents to the use thereof.

(10) Horse racing dates may be awarded and licenses issued authorizing horse racing on any day of the year. Horse racing shall be held or conducted only between sunrise and midnight.

(11) The authority may at any time require the removal of any official or employee of any association in those instances where it has reason to believe that the official or employee has been guilty of any dishonest practice in connection with horse racing or has failed to comply with any condition of his license or has violated any law or any administrative regulation of this authority.

(12) Every horse race not licensed under this section is hereby declared to be a public nuisance and the authority may obtain an injunction against the same in the Circuit Court of the county where the unlicensed race is proposed to take place.

Section 634. KRS 234.310 is amended to read as follows:

As used in KRS 234.310 to 234.440, unless the context requires otherwise:

(1) *"Department"*~~["Cabinet"]~~ means the *Department of* Revenue~~[Cabinet]~~;

(2) "Person" includes every natural person, fiduciary, association, state, or political subdivision, or corporation. Whenever used in any clause prescribing and imposing imprisonment the term "person" as applied to an association means and includes the partners or members thereof, and as applied to corporations, the officers thereof;

(3) "Liquefied petroleum gas motor fuel" means and includes all combustible gases and liquids as described in KRS 234.100 used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways;

(4) "Motor vehicle" means any vehicle, machine or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by such motor vehicle;

(5) "Public highways" means every way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair or reconstruction;

(6) "Liquefied petroleum gas motor fuel dealer" means any person who imports or causes to be imported into this state for resale or use, or any person making sales in this state, of liquefied petroleum gas motor fuel for resale or use in this state by a licensed liquefied petroleum gas motor fuel user-seller;

(7) "Liquefied petroleum gas motor fuel user-seller" means any person, not licensed as a liquefied petroleum gas motor fuel dealer, who dispenses liquefied petroleum gas motor fuel into the fuel tanks of, or attached to, motor vehicles for the propulsion of such motor vehicles on the public highways, and shall include any such person who so dispenses liquefied petroleum gas motor fuel for consumption in such motor vehicles owned, leased, or operated by him.

Section 635. KRS 234.320 is amended to read as follows:

(1) An excise tax at the rate levied in KRS 138.220(1) and (2) is hereby levied and shall be paid by the liquefied petroleum gas motor fuel dealer to the *department*~~[cabinet]~~ on all taxable liquefied petroleum gas motor fuel delivered to the licensed liquefied petroleum gas motor fuel user-seller or withdrawn by the liquefied petroleum gas motor fuel dealer to propel motor vehicles on the public highways, either within or without this state. An allowance of one percent (1%) of the tax shall be made to the liquefied petroleum gas motor fuel dealer to cover unaccountable losses, bad debts, and handling and reporting the tax.

(2) No other excise or license tax shall be levied or assessed on liquefied petroleum gas motor fuel by any political subdivision of the state, except the licenses under KRS 234.120.

(3) No provision of KRS 234.310 to 234.440 shall in any way affect the surtax imposed on heavy equipment motor carriers under KRS 138.660.

Section 636. KRS 234.330 is amended to read as follows:

(1) A license shall be required of each liquefied petroleum gas motor fuel dealer.

(2) Application for a license shall be made to the *department*~~[cabinet]~~ upon forms prepared and furnished by the *department*~~[cabinet]~~. The application shall contain such information as the *department*~~[cabinet]~~ deems necessary.

(3) Concurrently with the filing of an application for a license, a liquefied petroleum gas motor fuel dealer shall file with the *department*~~[cabinet]~~ a bond as required under KRS 234.340. No license shall be issued to any person unless such person has furnished a bond as provided in KRS 234.340 to secure payment of taxes, penalties and interest imposed by KRS 234.310 to 234.440.

(4) The application in proper form having been accepted for filing, the bond, if required, having been accepted and approved and the other conditions and requirements of this section having been complied with, the *department*~~[cabinet]~~ shall issue a license. However, if an application for a license is filed by any person whose license has at any time previously been revoked for cause by the *department*~~[cabinet]~~, or if the *department*~~[cabinet]~~ is of the opinion that the person who makes the application as a subterfuge for the real party in interest whose license, prior to the time of filing the application, has been revoked for cause, or that the application is not for any other reason filed in good faith or is not for sufficient cause, the *department*~~[cabinet]~~ may, after a hearing of which the applicant shall be given ten (10) days' notice in writing and in which he shall have the right to appear in person or by counsel and present testimony, refuse to issue a license to that person.

(5) All licenses shall be valid and remain in full force and effect until suspended or revoked for cause or otherwise canceled.

(6) A license shall not be assignable or transferable and shall be valid only for the person in whose name it is issued.

(7) The *department*~~[cabinet]~~ shall keep and file all applications and bonds, with an alphabetical index thereof.

Section 637. KRS 234.340 is amended to read as follows:

(1) Every liquefied petroleum gas motor fuel dealer shall file with the *department*~~[cabinet]~~ a corporate bond, cash bond, or securities approved by the *department*~~[cabinet]~~ in a minimum amount of five hundred dollars ($500) and in a maximum amount of four (4) months' liability for taxes imposed under KRS 234.310 to 234.440 but not to exceed fifty thousand dollars ($50,000). If, however, a liquefied petroleum gas motor fuel dealer is bonded as provided in KRS 138.330 the *department*~~[cabinet]~~ may waive the bonding requirement in this section provided a rider is attached to the bond to guarantee payment of all liquefied petroleum gas motor fuel taxes together with all penalties and interest thereon and secure faithful compliance with the provisions of KRS 234.310 to 234.440. The applicant for a license shall be the principal obligor and this state shall be the obligee. The bond shall be conditioned upon the prompt filing of true reports and the payment by the licensee to the *department*~~[cabinet]~~ of all taxes levied under KRS 234.310 to 234.440, together with all penalties and interest thereon and generally upon faithful compliance with the provisions of KRS 234.310 to 234.440.

(2) If the liability upon the bond is discharged or reduced, whether by judgment rendered, payment made, or otherwise or if in the opinion of the *department*~~[cabinet]~~ any surety has become unsatisfactory or unacceptable, the *department*~~[cabinet]~~ may require the licensee to file a new bond with satisfactory surety in the same form and amount, failing which the *department*~~[cabinet]~~ shall cancel the license in accordance with the provisions of this section. If a new bond is furnished by the licensee as above provided, the *department*~~[cabinet]~~ shall cancel the bond for which the new bond is substituted.

(3) If upon an informal hearing, of which the licensee shall be given ten (10) days' notice in writing, the *department*~~[cabinet]~~ decides that the amount of the existing bond is insufficient to insure payment to this state of the amount of the tax, penalties, and interest for which the licensee is or may become liable, the licensee shall, upon the written demand of the *department*~~[cabinet]~~, file an additional bond in the same manner and form with surety thereon approved by the *department*~~[cabinet]~~, in any amount determined by the *department*~~[cabinet]~~ to be necessary, failing which the *department*~~[cabinet]~~ shall cancel the license in accordance with the provisions of this section.

(4) Any surety on a bond furnished by a licensee shall be released from all liability to this state accruing on the bond after the expiration of sixty (60) days from the date upon which the surety has lodged with the *department*~~[cabinet]~~ a written request to be released, but this request shall not operate to release the surety from any liability already accrued or which shall accrue before the expiration of the sixty (60) day period. The

department~~[cabinet]~~ shall, promptly on the receipt of the request, notify the licensee who furnished the bond, and unless the licensee shall, before the expiration of the sixty (60) day period, file with the *department*~~[cabinet]~~ a new bond with surety satisfactory to the *department*~~[cabinet]~~ in the amount and form prescribed in this section, the *department*~~[cabinet]~~ shall cancel the license in accordance with the provisions of this section. If the new bond is furnished by the licensee as above provided, the *department*~~[cabinet]~~ shall cancel the bond for which the new bond is substituted.

Section 638. KRS 234.350 is amended to read as follows:

(1) If a licensee at any time files a false monthly report of the information required, or fails or refuses to file the monthly report or to pay the full amount of the tax or violates any other provision of KRS 234.310 to 234.440, without a showing that the failure was due to reasonable cause, the *department*~~[cabinet]~~ may cancel the license and suspend the privilege of acting as a liquefied petroleum gas motor fuel dealer.

(2) Upon voluntary surrender of the license or upon receipt of a written request by a licensee, the *department*~~[cabinet]~~ may cancel his license, effective sixty (60) days from the date of request, but no license shall be canceled upon surrender or request unless the licensee has, prior to the date of cancellation, paid to this state all taxes, penalties, interest, and fines that are due or have accrued, and unless the licensee has surrendered to the *department*~~[cabinet]~~ his license.

(3) If upon investigation the *department*~~[cabinet]~~ ascertains that any person to whom a license has been issued is no longer engaged as a liquefied petroleum gas motor fuel dealer or a liquefied petroleum gas motor fuel user-seller, and has not been so engaged for a period of six (6) months, the *department*~~[cabinet]~~ may cancel the license by giving the person sixty (60) days' notice of cancellation, mailed to his last known address in which event the license shall be surrendered to the *department*~~[cabinet]~~.

(4) Whenever a licensee ceases to engage in business within this state, he shall notify the *department*~~[cabinet]~~ in writing within fifteen (15) days after discontinuance. All taxes that have accrued under KRS 234.310 to 234.440, whether or not then due, shall become due and payable concurrently with the discontinuance. The licensee shall make a report and pay all such taxes and any interest and penalties thereon, and shall surrender to the *department*~~[cabinet]~~ his license.

(5) If the *department*~~[cabinet]~~ takes action to cancel a license as provided in this section, the licensee shall be notified by certified or registered letter or summons of the charges against him, and he shall be afforded an opportunity for an informal hearing on the matter. The hearing shall be set at least five (5) days from the date the letter is delivered or the summons is served. Any licensee aggrieved by a decision to cancel his license after the informal hearing may appeal the decision to the Kentucky Board of Tax Appeals where he shall be granted an administrative hearing in accordance with KRS Chapter 13B.

(6) If the license is canceled by the *department*~~[cabinet]~~ as provided in this section, and if the licensee has paid to this state all taxes, interest, and penalties under KRS 234.310 to 234.440, the *department*~~[cabinet]~~ shall cancel the bond filed by the licensee.

Section 639. KRS 234.360 is amended to read as follows:

(1) Every liquefied petroleum gas motor fuel dealer licensee shall maintain complete records of inventories, purchases, sales, use and other dispositions of liquefied petroleum gas. Such records, together with manifests of lading, invoices, correspondence, and other papers pertaining to liquefied petroleum gas motor fuel shall be retained for a minimum of two (2) years, and if requested by the *department*~~[cabinet]~~, shall be made available for examination by the *department*~~[cabinet]~~.

(2) Where storage of liquefied petroleum gas is for multiple uses, and where the number of gallons taxable of liquefied petroleum gas motor fuel is determined by the liquefied petroleum gas motor fuel dealer and/or the liquefied petroleum gas motor fuel user-seller, based on the best estimate possible from mileage and efficiency records available, all mileage and efficiency records of such motor vehicle must be retained for a minimum period of two (2) years, and, if requested by the *department*~~[cabinet]~~, shall be made available for examination by the *department*~~[cabinet]~~.

Section 640. KRS 234.370 is amended to read as follows:

(1) Every liquefied petroleum motor fuel dealer licensee shall file with the *department*~~[cabinet]~~, on forms prescribed by the *department*~~[cabinet]~~, a monthly tax return. The return shall be made under penalty of perjury and shall show such information as the *department*~~[cabinet]~~ may require. The licensee shall file the return on or before the twenty-fifth day of the next succeeding calendar month following the month to which it relates.

(2) The monthly tax return shall be accompanied by remittance covering the tax due.

Section 641. KRS 234.380 is amended to read as follows:

Liquefied petroleum gas motor fuel dealers using, selling, and/or delivering liquefied petroleum gas to motor vehicles, or into storage for use in motor vehicles, shall report and pay the state tax at the rate levied in KRS 138.220(1) and (2) on all such fuel to the *Department of* Revenue~~[Cabinet]~~. The dealer shall issue an invoice to the customer whenever the sale or delivery is consummated giving the invoice date, name and address of the customer, and number of taxable gallons sold or delivered. The number of taxable gallons to be invoiced shall be determined in the following manner by the dealer:

(1) The metered gallons, if placed into a fuel tank of a motor vehicle;

(2) The metered gallons, if placed into storage, all of which is to be used or sold for use in motor vehicles;

(3) The number of gallons to be used in motor vehicles, if the storage is for multiple uses. The number of taxable gallons to be determined by the user and the dealer based on the best estimate possible from mileage and efficiency records available; or

(4) If the motor vehicle carburetor is connected to a fuel line leading from a fuel tank where another, or other motors are supplied with fuel also, then the number of gallons to be invoiced as taxable motor fuel shall be determined from mileage and fuel efficiency records.

Section 642. KRS 234.400 is amended to read as follows:

The *department*~~[cabinet]~~ may audit the books and records of each licensee and make such other investigations as it deems necessary to determine whether or not the tax and other requirements imposed by KRS 234.310 to 234.440 have been met.

Section 643. KRS 234.410 is amended to read as follows:

The reports required by KRS 234.370 shall be accompanied by a certified or cashier's check payable to the State Treasurer, for the amount of tax due for the preceding calendar month computed as provided in KRS 234.380, except that the *department*~~[cabinet]~~ may waive this requirement and accept the check of the licensee if he is of sound financial condition and has established a good record of compliance with the requirements of KRS 234.310 to 234.440.

Section 644. KRS 234.440 is amended to read as follows:

(1) The *department*~~[cabinet]~~ shall administer the taxes provided in KRS 234.310 to 234.430 and this section and may prescribe, adopt and enforce regulations relating to the administration and enforcement thereof.

(2) The *department*~~[cabinet]~~ shall, upon the request of the officials to whom are entrusted the enforcement of the liquefied petroleum gas motor fuel tax law of any other state of the United States or the provinces of the Dominion of Canada, forward to such officials any information which it may have relative to the manufacture, receipt, sale, use, transportation, shipment, or delivery by any person of liquefied petroleum gas motor fuel, provided such other state or states provide for the furnishing of like information to this state.

Section 645. KRS 241.010 is amended to read as follows:

As used in this chapter and in KRS Chapters 242 and 243, unless the context requires otherwise:

(1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced.

(2) "Alcoholic beverage" means every liquid or solid, whether patented or not, containing alcohol in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products:

(a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;

(b) Patented, patent, and proprietary medicines;

(c) Toilet, medicinal, and antiseptic preparations and solutions;

(d) Flavoring extracts and syrups;

(e) Denatured alcohol or denatured rum;

(f) Vinegar and preserved sweet cider;

(g) Wine for sacramental purposes;

(h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use; and

(i) Malt beverages, containing not more than three and two-tenths percent (3.2%) of alcohol by weight, in territory that has voted to allow the sale thereof.

(3) "Board" means the State Alcoholic Beverage Control Board created by KRS 241.030.

(4) "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail.

(5) "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either by himself or by his agent.

(6) "Brewery" means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept.

(7) "Building containing licensed premises" means the licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership.

~~(8)["Cabinet" means the Revenue Cabinet unless the context requires otherwise.~~

~~(9)]~~ "Caterer" means a corporation, partnership, or individual that operates the business of a food service professional by preparing food in a licensed and inspected commissary, transporting the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to a location selected by the customer, and serving the food and alcoholic beverages to the customer's guests.

(9)~~[(10)]~~ "Charitable organization" means a nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes.

(10)~~[(11)]~~ "Cider" means any fermented fruit-based beverage containing more than one-tenth of one percent (0.1%) alcohol by volume and includes hard cider and perry cider.

(11)~~[(12)]~~ "City administrator" means city alcoholic beverage control administrator.

(12)~~[(13)]~~ "Commissioner" means the commissioner of alcoholic beverage control.

(13)~~[(14)]~~ "Convention center" means any facility which, in its usual and customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions.

(14)~~[(15)]~~ "Convicted" and "conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment.

(15)~~[(16)]~~ "County administrator" means county alcoholic beverage control administrator.

(16)~~[(17)]~~ "Department" means the Department of Alcoholic Beverage Control.

(17)~~[(18)]~~ "Distilled spirits" or "spirits" means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages.

(18)~~[(19)]~~ "Distiller" means any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky.

(19)~~[(20)]~~ "Distillery" means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse.

(20)~~[(21)]~~ "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail.

(21)~~[(22)]~~ "Dry territory" means a county, city, district, or precinct in which a majority of voters have voted in favor of prohibition.

(22)~~[(23)]~~ "Farm winery" means a winery located on a Kentucky farm with a producing vineyard, orchard, or similar growing area, manufacturing and bottling wines in an amount not to exceed twenty-five thousand (25,000) gallons per year.

(23)~~[(24)]~~ "Election" means:

(a) An election held for the purpose of taking the sense of the people as to the application or discontinuance of alcoholic beverage sales under KRS Chapter 242; or

(b) Any other election not pertaining to alcohol.

(24)~~[(25)]~~ "Field representative" means any employee or agent of the department who is regularly employed and whose primary function is to travel from place to place for the purpose of visiting taxpayers, and any employee or agent of the department who is assigned, temporarily or permanently, by the commissioner to duty outside the main office of the department at Frankfort, in connection with the administration of alcoholic beverage statutes.

(25)~~[(26)]~~ "License" means any license issued pursuant to KRS 243.020 to 243.670.

(26)~~[(27)]~~ "Licensee" means any person to whom a license has been issued, pursuant to KRS 243.020 to 243.670.

(27)~~[(28)]~~ "Limited restaurant" means a facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross income from the sale of food, which maintains a minimum seating capacity of one hundred (100) persons for dining, and which is located in a territory where prohibition is no longer in effect under KRS 242.185(6).

(28)~~[(29)]~~ "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and having an alcoholic content greater than that permitted under subsection (2)(i) of this section.

(29)~~[(30)]~~ "Manufacture" means distill, rectify, brew, bottle, and operate a winery.

(30)~~[(31)]~~ "Manufacturer" means a vintner, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages.

(31)~~[(32)]~~ "Minor" means any person who is not twenty-one (21) years of age or older.

(32)~~[(33)]~~ "Premises" means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or tract of land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998 shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license.

(33)~~[(34)]~~ "Prohibition" means the application of KRS 242.190 to 242.430 to a territory.

(34)~~[(35)]~~ "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name.

(35)~~[(36)]~~ "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made.

(36)~~[(37)]~~ "Restaurant" means a facility where the usual and customary business is the serving of meals to consumers, that has a bona fide kitchen facility, and that receives at least fifty percent (50%) of its gross receipts from the sale of food.

(37)~~[(38)]~~ "Retail container" means any bottle, can, barrel, or other container which, without a separable intermediate container, holds alcoholic beverages and is suitable and destined for sale to a retail outlet, whether it is suitable for delivery to the consumer or not.

(38)~~[(39)]~~ "Retail outlet" means retailer, hotel, motel, restaurant, railroad dining car, club, and any facility where alcoholic beverages are sold directly to the consumers.

(39)~~[(40)]~~ "Retail sale" means any sale where delivery is made in Kentucky to any consumers.

(40)~~[(41)]~~ "Retailer" means any person who sells at retail any alcoholic beverage for the sale of which a license is required.

(41)~~[(42)]~~ "Sale" means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage.

(42)~~[(43)]~~ *"Commissioner"*~~["Secretary"]~~ means the *commissioner*~~[secretary]~~ of the Kentucky *Department of* Revenue~~[Cabinet]~~.

(43)~~[(44)]~~ "Service bar" means a bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic beverages that is a workstation where employees prepare alcoholic beverage drinks to be delivered to customers away from the service bar. A service bar shall be located in an area where the general public, guests, or patrons are prohibited.

(44)~~[(45)]~~ "Sell" includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage.

(45)~~[(46)]~~ "Small winery" means a winery producing wines from grapes, other fruit, or honey produced in Kentucky, unless exempt under KRS 243.155(2), in an amount not to exceed fifty thousand (50,000) gallons in one (1) year.

(46)~~[(47)]~~ "Souvenir package" means a special package of Kentucky straight bourbon whiskey available for retail sale at a licensed Kentucky distillery where the whiskey was produced or bottled that is available from a licensed retailer.

(47)~~[(48)]~~ "State administrator" means the administrator of the Distilled Spirits Unit or the administrator of the Malt Beverage Unit, or both, as the context requires.

(48)~~[(49)]~~ "Supplemental bar" means a bar, counter, shelving, or similar structure used for serving and selling distilled spirits or wine by the drink for consumption on the licensed premises to guests and patrons from additional locations other than the main bar. A supplemental bar shall be continuously constructed and accessible to patrons for distilled spirits or wine sales or service without physical separation by walls, doors, or similar structures.

(49)~~[(50)]~~ "Vehicle" means any device or animal used to carry, convey, transport, or otherwise move alcoholic beverages or any products, equipment, or appurtenances used to manufacture, bottle, or sell these beverages.

(50)~~[(51)]~~ "Vintner" means any person who owns, occupies, carries on, works, conducts, or operates any winery, either by himself or by his agent, except persons who manufacture wine for sacramental purposes exclusively.

(51)~~[(52)]~~ "Warehouse" means any place in which alcoholic beverages are housed or stored.

(52)~~[(53)]~~ "Wholesale sale" means a sale to any person for the purpose of resale.

(53)~~[(54)]~~ "Wholesaler" means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet.

(54)~~[(55)]~~ "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures

contain not more than fifteen percent (15%) of alcohol by volume. It includes ciders, perry, or sake having an alcohol content greater than that permitted under subsection (2)(i) of this section.

(55)~~[(56)]~~ "Winery" means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded. It includes a winery for the manufacture of wine in any state or county other than Kentucky, if the out-of-state winery has and maintains a branch factory, office, or storeroom within this state and receives wine within this state consigned to a United States government bonded winery, warehouse, or storeroom located within this state.

Section 646. KRS 241.020 is amended to read as follows:

(1) The department shall administer statutes relating to, and regulate traffic in, alcoholic beverages, except that the collection of taxes shall be administered by the *Department of* Revenue~~[Cabinet]~~.

(2) A distilled spirits unit, under the supervision of the board, shall administer the laws in relation to traffic in distilled spirits and wine.

(3) A malt beverage unit, under the supervision of the board, shall administer the laws in relation to traffic in malt beverages.

Section 647. KRS 243.180 is amended to read as follows:

(1) A distributor's license shall authorize the licensee to purchase malt beverages from Kentucky breweries or from out-of-state breweries or distributors licensed to do business by the state in which they are located, import a non-United States brand malt beverage from an importer or wholesaler registered with the Kentucky *Department of* Revenue~~[Cabinet]~~; or store malt beverages and to sell them only, from the licensed premises, to other distributors, to licensed retailers, to any of its employees for home consumption and also to charitable or fraternal organizations holding group meetings, picnics or outings.

(2) A distributor shall transport malt beverages only by a vehicle owned, rented or leased and operated by himself, which has affixed to its sides at all times a sign of form and size prescribed by the state board, containing among other things the name and license number of the licensee. No distilled spirits or wine shall be transported on the same truck or vehicle with malt beverages, except by a common carrier, unless the owner of such truck or vehicle holds a wholesaler's license.

(3) A distributor's license must be obtained for each separate warehouse, agent, distributor, broker, jobber or place of business from which orders are received or beverages are distributed unless it is a licensed brewery.

Section 648. 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 *Department of* 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 649. 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, 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. Promptly upon receipt thereof the board shall pay the same into the State Treasury, giving the *Department of* Revenue~~[Cabinet]~~ copies of the pay-in vouchers and such other supporting data as the *Department of* Revenue~~[Cabinet]~~ may require for revenue control purposes.

Section 650. KRS 243.400 is amended to read as follows:

(1) Every applicant for a brewer's, distiller's, rectifier's, bottling house or vintner's license shall file with his application a bond to the state in the amount of one thousand dollars ($1,000). The bond shall be on a form approved by the board and shall have corporate surety registered by the Department of Insurance. The applicant shall be the principal obligor and the state shall be the obligee. The bond shall be conditioned upon the prompt payment by the obligor to the *Department of* Revenue~~[Cabinet]~~ of any and all state taxes, with penalties and interest. The applicant may file a continuing bond provided that each renewal application is accompanied by:

(a) An affidavit that the bond remains in force, and

(b) A copy of consent of surety.

An applicant for two (2) or more licenses of the same kind may file a blanket bond covering all of his operations. The amount of such a bond shall be the same as if separate bonds were furnished.

(2) Every applicant for a wholesaler's license shall file with his application a corporate surety bond to the state in the minimum amount of two thousand dollars ($2,000) or an amount equal to three (3) times the monthly tax liability, whichever is less, and up to a maximum amount of twenty-five thousand dollars ($25,000). It shall be sufficient, in the opinion of the board, which shall consider the financial reputation and rating of the applicant, to insure payment to the state of the amount of any and all taxes and penalties and interest for which the wholesaler may become liable. It shall be on a form to be approved by the board and with surety on the bond approved by the board. The applicant shall be the principal obligor and the state the obligee. The bond shall be conditioned upon the prompt payment by the wholesaler to the *Department of* Revenue~~[Cabinet]~~ of any and all state taxes, with penalties and interest.

Section 651. KRS 243.420 is amended to read as follows:

A suit to recover on any of the bonds mentioned in KRS 243.400 and 243.410 may be brought in the Franklin Circuit Court or in the circuit court of the county in which the licensed premises are located, in the name of the state, by the *commissioner of the Department of Revenue*~~[secretary of revenue]~~ or on relation of any party aggrieved. If the obligor named in the bond has violated any of the conditions of the bond, recovery of the penal sum of the bond may be had in favor of the state or of the party aggrieved; or judgment for tax, penalties and interest may be rendered in favor of the state.

Section 652. KRS 243.490 is amended to read as follows:

(1) Any license issued under KRS 243.020 to 243.670 may be revoked by the state board if the licensee shall have violated any of the provisions of KRS Chapter 241, 243, or 244, or any rule or regulation of the board or of the *Department of* Revenue~~[Cabinet]~~ relating to the regulation of the manufacture, sale, and transportation or taxation of alcoholic beverages or if the licensee shall have violated or shall violate any Act of Congress or any rule or regulation of any federal board, agency, or commission, or any ordinance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors or any rules or regulations of any local alcoholic beverage authority or any similar body heretofore in existence or authorized by the terms of KRS Chapters 241, 243, and 244 to be created, or if any clerk, agent, servant, or

employee of any licensee shall violate any of the laws, regulations, or ordinances above referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his instructions, or any license may be revoked for any cause which the Alcoholic Beverage Control Board in the exercise of its sound discretion deems sufficient. A license may be revoked for any of the reasons for which the administrator would have been required to refuse a license if the facts had been known.

(2) If it is determined that an applicant for a license or license renewal under the provisions of this chapter is a delinquent taxpayer as defined in KRS 131.1815, the Department of Alcoholic Beverage Control may refuse to issue or renew the license to the applicant.

Section 653. KRS 243.490 is amended to read as follows:

(1) Any license issued under KRS 243.020 to 243.670 may be revoked by the state board if the licensee shall have violated any of the provisions of KRS Chapter 241, 243, or 244, or any rule or regulation of the board or of the *Department of* Revenue~~[Cabinet]~~ relating to the regulation of the manufacture, sale, and transportation or taxation of alcoholic beverages or if the licensee shall have violated or shall violate any Act of Congress or any rule or regulation of any federal board, agency, or commission, or any ordinance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors or any rules or regulations of any local alcoholic beverage authority or any similar body heretofore in existence or authorized by the terms of KRS Chapters 241, 243, and 244 to be created, or if any clerk, agent, servant, or employee of any licensee shall violate any of the laws, regulations, or ordinances above referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his instructions, or any license may be revoked for any cause which the Alcoholic Beverage Control Board in the exercise of its sound discretion deems sufficient. A license may be revoked for any of the reasons for which the administrator would have been required to refuse a license if the facts had been known.

(2) If it is determined that an applicant for a license or license renewal under the provisions of this chapter is a delinquent taxpayer as defined in KRS 131.1815, the Department of Alcoholic Beverage Control may refuse to issue or renew the license to the applicant.

Section 654. KRS 243.500 is amended to read as follows:

Any license issued under KRS 243.020 to 243.670 may be revoked or suspended for the following causes:

(1) Conviction of the licensee or his agent or employee for selling any illegal beverages on the licensed premises.

(2) Making any false, material statements in an application for a license or supplemental license.

(3) Violation of the provisions of KRS 243.670.

(4) Conviction of the licensee or any of his clerks, servants, agents, or employees of:

(a) Two (2) violations of the terms and provisions of KRS Chapter 241, 243, or 244 or any act regulating the manufacture, sale, and transportation of alcoholic beverages within two (2) consecutive years;

(b) Two (2) misdemeanors directly or indirectly attributable to the use of intoxicating liquors within two (2) consecutive years; or

(c) Any felony.

(5) Failure or default of a licensee to pay an excise tax or any part of the tax or any penalties imposed by or under the provisions of any statutes, ordinances, or Acts of Congress relative to taxation, or for a violation of any administrative regulations promulgated by the *Department of* Revenue~~[Cabinet]~~ made in pursuance thereof.

(6) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600, and 243.610, or granted under any Act of Congress relative to the regulation of the manufacture, sale, and transportation of alcoholic beverages. Any license issued under KRS 243.020 to 243.670 shall be revoked or suspended if the licensee sells the alcoholic beverages at a price in excess of the price set by federal or state regulations.

(7) Setting up, conducting, operating, or keeping, on the licensed premises, any gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility. This section shall not apply to contests in which eligibility to participate is determined by chance and the ultimate winner is determined by skill and the licensee has no direct interest, or to the sale of lottery tickets sold under the provisions of KRS Chapter 154A.

(8) Conviction of the licensee, his agents, servants, or employees for:

(a) The sale or use upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances;

(b) Knowingly permitting the sale or use by patrons upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances; or

(c) Knowingly receiving stolen property upon the licensed premises.

Section 655. KRS 243.630 is amended to read as follows:

(1) For purpose of this section, "transfer" means:

(a) The transfer to a new person or entity of ten percent (10%) or more ownership interest in any license issued under KRS 243.020 to 243.670; or

(b) The transfer in bulk, and not in the ordinary course of business, of a major part of the fixtures, materials, supplies, merchandise, or other inventory of a licensee's business.

(2) Any license issued under KRS 243.020 to 243.670 to any person for any licensed premises shall not be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises, unless a transfer or assignment is authorized by the state administrator in the exercise of his sound discretion under KRS 243.640 or 243.650. For the purposes of this section, each railroad dining car shall be deemed premises to be separately licensed.

(3) A licensee shall not acquire or otherwise dispose of any interest in a licensed premises or any license issued by the department, by sale of assets, stock, inventory, control or right of control, or activities on the licensed premises without prior approval of the state administrator. The state administrator shall grant approval if the person acquiring the interest meets the qualifications for a new applicant.

(4) Any acquisition of interest in a license without prior authorization shall be void.

(5) All applications for approval of a transfer shall be made in writing to the state administrator having jurisdiction over the license.

(6) Applications for approval of a transfer shall be made under oath or affirmation, shall be signed by both the transferor and the transferee, and shall contain such other information as the department may prescribe.

(7) The appropriate state administrator shall grant or deny the application within sixty (60) days of the date the application is substantially complete or on a later date that is mutually acceptable to the administrator and the transferee, but it shall not be acted upon before the end of the public protest period outlined in KRS 243.360.

(8) No licensee or other person seeking to acquire an interest in an existing license shall transfer control or assume control of any licensed premises by agreement or otherwise without the written consent of the state malt beverage administrator or the state distilled spirits administrator or both.

(9) A licensee shall not transfer his or her license or any interest in the license while any proceedings against the license or the licensee for a violation of any statute or regulation which may result in the suspension or revocation of the license are pending.

(10) A licensee shall not transfer his or her license or any interest he or she has in the license if the licensee owes a debt on the inventory to a wholesaler responsible for the collection and payment of the tax imposed under KRS 243.884.

(11) A licensee shall not transfer his or her license or any interest in the license if the licensee owes the Commonwealth of Kentucky for taxes as defined in KRS 243.500(5). A transfer shall not take place until the department is notified by the Kentucky *Department of* Revenue~~[Cabinet]~~ that the licensee's indebtedness has been paid or resolved to the~~[cabinet's]~~ satisfaction *of the Department of Revenue*. This section shall not prohibit a transfer of a license or an interest in a license by a trustee in bankruptcy if all other requirements of this section are met.

Section 656. KRS 243.710 is amended to read as follows:

Each wholesaler shall pay to the *Department of Revenue*~~[cabinet]~~ five cents ($0.05) per case on each case of distilled spirits sold by him in the state. This tax shall be computed each month according to the report required to be filed by KRS 243.850 and shall be paid on or before the date in each succeeding month when reports are required to be filed.

Section 657. KRS 243.730 is amended to read as follows:

(1) (a) Wholesalers of distilled spirits and wine shall pay and report the tax levied by KRS 243.720(1) and (2) on or before the twentieth day of the calendar month next succeeding the month in which possession or title of the distilled spirits and wine is transferred from the wholesaler to retailers or consumers in this state, in accordance with rules and regulations of the *Department of* Revenue~~[Cabinet]~~ designed reasonably to protect the revenues of the Commonwealth.

(b) Distributors or retailers of malt beverages, who purchase malt beverages directly from a brewer, shall pay and report the tax levied by KRS 243.720(3) on or before the twentieth day of the calendar month next succeeding the month in which the brewer sells, transfers, or passes title of the malt beverage to the distributor or retailer, in accordance with rules and regulations of the *Department of* Revenue~~[Cabinet]~~ designed reasonably to protect the revenues of the Commonwealth. The credit allowed brewers in this state, under the provisions of KRS 243.720(3)(b), shall flow through to the distributor or retailer who purchases malt beverages directly from the brewer. If a brewer sells, transfers, or passes title to malt beverages to any of its employees for home consumption or to any charitable or fraternal organization pursuant to the provisions of KRS 243.150, the brewer shall be responsible for paying and reporting the tax levied by KRS 243.720(3) in accordance with the provisions of subsection (c) of this section.

(c) Every brewer selling, transferring, or passing title to malt beverages to any person in this state other than a distributor or retailer, and every other person selling, transferring, or passing title of distilled spirits, wine, or malt beverages to distributors, retailers, or consumers shall report and pay the tax levied by KRS 243.720(1), (2), or (3) on or before the twentieth day of the calendar month next succeeding the month in which possession or title of distilled spirits, wine, or malt beverages is transferred to a distributor, retailer, or consumer in this state, in accordance with rules and regulations of the *Department of* Revenue~~[Cabinet]~~ designed reasonably to protect the revenues of the Commonwealth.

(d) Every distributor, retailer, or consumer possessing, using, selling, or distributing distilled spirits, wine, or malt beverages in this state upon which the tax levied by KRS 243.720(1), (2), or (3) and KRS 243.884 has not been paid shall be jointly and severally liable for reporting and paying the tax due, in accordance with rules and regulations of the *Department of* Revenue~~[Cabinet]~~ designed reasonably to protect the revenues of the Commonwealth. Such liability shall not be extinguished until the tax has been paid to the *Department of* Revenue~~[Cabinet]~~.

(e) Notwithstanding the provisions of subsection 1(a) of this section, every owner of a farm winery shall pay and report the tax levied by KRS 243.720 (1) and (2) on a quarterly basis, in accordance with administrative regulations of the *Department of* Revenue~~[Cabinet]~~ designed reasonably to protect the revenues of the Commonwealth.

(2) Every wholesaler of distilled spirits or wine before using, selling, or distributing by sale or gift distilled spirits and wine shall qualify with the *Department of* Revenue~~[Cabinet]~~. In order to so qualify, each wholesaler shall furnish to the *Department of* Revenue~~[Cabinet]~~ a certified copy of the bond required to be filed with the Cabinet of Alcoholic Beverage Control under the provisions of KRS 243.400(2).

(3) Notwithstanding the provisions of KRS 243.400(1), every brewer before selling or distributing by sale or gift malt beverages, or before importing malt beverages into the state, shall qualify with the *Department of* Revenue~~[Cabinet]~~ in such manner as the *department*~~[cabinet]~~ may require.

(4) The *department*~~[cabinet]~~ shall have the power to require a bond from any other person liable for Kentucky distilled spirits, wine, or malt beverage taxes provided such person is not otherwise required to post a bond under the provisions of this section. The amount of the bond for persons liable for Kentucky distilled spirits or wine taxes shall be computed as provided in KRS 243.400(2). The amount of the bond for persons liable for Kentucky malt beverage taxes shall be in the minimum amount of one thousand dollars ($1,000) or an amount equal to three (3) times the person's average monthly Kentucky malt beverage tax liability, whichever is greater. The bond shall be on a form prescribed by the *department*~~[cabinet]~~ and have corporate surety registered by the Department of Insurance. The person liable for the tax shall be the principal obligor and the state the obligee. The bond shall be conditioned upon the prompt payment by the person to the *Department of* Revenue~~[Cabinet]~~ of all malt beverage taxes due, with penalties and interest.

Section 658. KRS 243.790 is amended to read as follows:

The sale or distribution of alcoholic beverages manufactured in or imported into this state for shipment permanently out of the state to be sold through retail outlets without the state and consumed without the state shall not be subject to

the tax imposed by KRS 243.720. Provided, however, the *Department of* Revenue~~[cabinet]~~ may, when necessary for the purpose of control enforcement or protection of revenue, prescribe the conditions under which containers of such alcoholic beverages for shipment permanently out of the state to be sold through retail outlets without the state and consumed without the state may be kept and trafficked in without payment of the tax.

Section 659. KRS 243.850 is amended to read as follows:

For the purpose of assisting in the enforcement of KRS 243.720 to 243.850 and 243.884 or any amendments thereof, every licensee, except retailers, whether subject to the payment of taxes imposed by said sections or any amendments thereof, shall, on or before the twentieth day of each month, render to the *Department of* Revenue~~[Cabinet]~~ a statement, in writing, of all his trafficking in alcoholic beverages during the preceding month. Such statement shall be taken directly from the records of the reporting licensee, and shall set forth on forms furnished by the *Department of* Revenue~~[Cabinet]~~ such information as shall be required by it. Such statement shall include alcohol destined for sale outside the state, as well as alcoholic beverages subject to the tax imposed by KRS 243.720 to 243.850 and 243.884 or any amendments thereof. Provided, that the *Department of* Revenue~~[Cabinet]~~ shall have authority to require from retail licensees and other licensees, other reports and statements at such times as are necessary for the enforcement of KRS 243.720 to 243.850 and 243.884 or any amendments thereof.

Section 660. KRS 243.884 is amended to read as follows:

(1) For the privilege of making "wholesale sales" or "sales at wholesale" of beer, wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine and distilled spirits at the rate of nine percent (9%) and upon all distributors of beer at the rate of nine percent (9%) of the gross receipts of any such wholesaler or distributor derived from "sales at wholesale" or "wholesale sales" made within the Commonwealth except as provided in subsection (2) of this section. Wholesalers of distilled spirits and wine and distributors of malt beverages shall pay and report the tax levied by this section on or before the 20th day of the calendar month next succeeding the month in which possession or title of the distilled spirits, wine or malt beverages is transferred from the wholesaler or distributor to retailers or consumers in this state, in accordance with rules and regulations of the *Department of* Revenue~~[Cabinet]~~ designed reasonably to protect the revenues of the Commonwealth.

(2) Gross receipts from sales at wholesale or wholesale sales shall not include the following sales:

   (a) Sales made between wholesalers or between distributors;

   (b) Sales made by a small winery or farm winery or wholesaler of wine produced by a small winery or farm winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are produced in Kentucky;

   (c) Until June 30, 2004, sales from a small winery or wholesaler of wine produced by a small winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are not produced in Kentucky.

Section 661. KRS 244.150 is amended to read as follows:

(1) Each licensee under KRS 243.020 to 243.670 shall keep and maintain upon the licensed premises, or make readily available upon request of the department or the *Department of* Revenue~~[Cabinet]~~, adequate books and records of all transactions involved in the manufacture or sale of alcoholic beverages, in the manner required by regulations of the department and the *Department of* Revenue~~[Cabinet]~~.

(2) The commissioner may require common carriers to provide information in such form as he or she deems wise respecting all shipments of alcoholic beverages to, from, or between persons in Kentucky.

Section 662. KRS 247.910 is amended to read as follows:

For purposes of KRS 247.900 to 247.920:

(1) "Alcohol production facility" shall mean and include any property or any facility which is not fueled by petroleum but fueled by Kentucky coal, or in the process of converting to the use of coal with the completion date to be in two (2) years or less, and designed, installed, or constructed as a component part of any commercial or industrial premises for the primary purpose of producing ethanol derived from agricultural products or by-products for use as a motor fuel;

(2) "Gasohol" means a fuel containing a mixture of gasoline and at least ten percent (10%) ethanol which is at least one hundred ninety-eight (198) proof for use in motor vehicles;

(3) "Alcohol production tax exemption certificate" shall mean that certificate issued by the *Department of* Revenue~~[Cabinet]~~ pursuant to KRS 247.920; and

(4) "Ethanol" means ethyl alcohol produced from grain or other agricultural products or by-products for use as a motor fuel.

Section 663. KRS 247.920 is amended to read as follows:

(1) Application for an alcohol production exemption certificate shall be filed with the *Department of* Revenue~~[Cabinet]~~ in such manner and in such form as may be prescribed by regulations issued by the *Department of* Revenue~~[Cabinet]~~ and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of producing ethanol for fuel use and any additional information deemed necessary by the *Department of* Revenue~~[Cabinet]~~ for the proper administration of KRS 247.910 and this section. The Kentucky Coal Council shall provide technical assistance and factual information as requested in writing by the *Department of* Revenue~~[Cabinet]~~. If the *Department of* Revenue~~[Cabinet]~~ finds that the facility qualifies as an alcohol production facility as defined by KRS 247.910, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.

(2) Before issuing an alcohol production tax exemption certificate, the *Department of* Revenue~~[Cabinet]~~ shall give notice in writing by mail to the Kentucky Coal Council, and shall afford to the applicant and to the Kentucky Coal Council an opportunity for a hearing. On like notice and opportunity for a hearing, the *Department of* Revenue~~[Cabinet]~~ shall on its own initiative revoke the certificate when any of the following appears:

(a) The certificate was obtained by fraud or misrepresentation;

(b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the alcohol production facilities; or

(c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of alcohol production for fuel use and is being used for a different purpose.

(3) If the circumstances so require, the *Department of* Revenue~~[Cabinet]~~, in lieu of revoking the certificate, may modify it.

(4) On mailing of notice of the action of the *Department of* Revenue~~[Cabinet]~~ revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.

(5) An alcohol production tax exemption certificate, when issued, shall be sent by certified mail to the applicant and the notice of issuance in the form of certified copies thereof shall be sent to the Kentucky Coal Council. Notice of an order of the *Department of* Revenue~~[Cabinet]~~ denying, revoking, or modifying a certificate in the form of certified copies thereof shall be sent by certified mail to the applicant or the holder and shall be sent to the Kentucky Coal Council. The applicant or holder and the Kentucky Coal Council shall be deemed parties for the purpose of the review afforded by subsection (6) of this section.

(6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of an alcohol production tax exemption certificate may appeal from the final ruling of the *Department of* Revenue~~[Cabinet]~~ to the Kentucky Board of Tax Appeals as provided in KRS 131.340.

(7) In the event of the sale, lease, or other transfer of an alcohol production facility, not involving a different location or use, the holder of an alcohol production tax exemption certificate for the facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on the facility. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as of the date of transfer of the certificate. The transferee shall give written notice of the effective date of the transfer, together with a copy of the instrument of transfer to the Kentucky Coal Council and the *Department of* Revenue~~[Cabinet]~~.

(8) In the event an alcohol production facility for which an exemption certificate is held ceases to be used for the primary purpose of alcohol production for fuel use or is used for a different purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of the change to the Kentucky Coal Council and to the *Department of* Revenue~~[Cabinet]~~.

(9) The alcohol production facility exemption certificate, upon approval, shall exempt said facilities from taxes outlined in the provisions of KRS 247.910 and this section and included in KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of eight (8) years from the date of issuance and at the end of said period shall lapse. Any alcohol production facility previously exempted under the terms of KRS 247.910 and this section shall not be eligible for recertification upon completion of the eight (8) year certificate period.

Section 664. KRS 247.946 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of KRS 247.940 to 247.978 including, but without limiting the generality of the foregoing, the power:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, administrative regulations, and policies in connection with the performance of its functions and duties;

(2) To review the projects authorized to be financed by KRS 247.940 to 247.978 in order to determine the following:

(a) The qualifications of the applicant as a party entitled to financing assistance under the provisions of KRS 247.940 to 247.978 and the rules and administrative regulations of the corporation;

(b) The qualifications of the applicant in the areas of experience, training, and financial ability in relation to the project for which assistance is sought and any other areas as the corporation shall determine necessary and desirable in implementing the intent of KRS 247.940 to 247.978 in the promotion of agriculture throughout the Commonwealth. Analysis shall include a careful evaluation of character, experience, record, and prospects for sound financial management and sound operation of the project. Financial ability factors to be considered shall include the applicant's total assets controlled, equity owned, contingent liabilities, history of earnings to date, and repayment capacity, as well as other factors set by the corporation. Consideration may be given to the special needs of beginning farmers;

(c) The economic need for the project in the area based upon general economic conditions and unemployment in the region;

(d) The economic soundness of the project based upon generally accepted cost-benefit methodology; and

(e) Consistency of the project with other policies of the Commonwealth designed to ensure a sustained land base for agriculture including preservation of prime farmland and promotion of soil conservation techniques for protection of farmland;

(3) To issue from time to time bonds, notes, bond anticipation notes, renewal notes, refunding bonds, interim certificates, certificates of indebtedness, debentures, warrants, commercial paper, or other obligations or evidence of indebtedness, hereinafter collectively referred to as "bonds" or "notes," to provide funds for and to fulfill and achieve its authorized public functions or corporate purposes, as set forth in the provisions of KRS 247.940 to 247.978; and in addition to the powers conferred hereunder, to have all the authority delegated to cities and counties pursuant to the provisions of KRS 103.200 to 103.285; provided, however, that bonds or notes issued by the corporation shall not be subject to the jurisdiction or approval of the Industrial Revenue Bond Oversight Committee or the State Property and Buildings Commission but shall be subject to the review of the Office of Financial Management *in the Office of the Controller within the Finance and Administration Cabinet*;

(4) To make or participate in the making of insured mortgage loans to qualified applicants for the purpose of purchasing agricultural real estate and improvements;

(5) To purchase or participate in the purchase of mortgage loans made to qualified applicants for the purpose of purchasing agricultural real estate and improvements;

(6) To make or participate in the making of loans to qualified applicants for the purpose of purchasing machinery, equipment, and livestock;

(7) To purchase or participate in the purchase of loans to qualified applicants for the purpose of purchasing machinery, equipment, and livestock;

(8) To make or participate in the making or to purchase or participate in the purchase of loans to qualified applicants for the purpose of leasing equipment, introducing new agricultural commodities or enhancing agricultural markets;

(9) To collect and pay reasonable fees and charges in connection with making, purchasing, and servicing its loans, notes, bonds, commitments, and other evidences of indebtedness;

(10) To acquire real and personal property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, and operate real and personal property; to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber real and personal property where necessary or appropriate to the purposes of the corporation subject to the rights of holders of the bonds of the corporation, at public or private sale, with or without public bidding;

(11) To sell, at public or private sale, all or any part of any real estate mortgage or chattel mortgage or other instrument or document securing any loan permitted by KRS 247.940 to 247.978;

(12) To procure insurance against any loss in connection with its operations in the amounts and from any insurers, as it may deem necessary or desirable;

(13) To consent, whenever the corporation deems necessary or desirable in the fulfillment of its corporate purposes, to the modification of interest rates, time of payment of principal or interest, or any other terms of any loan, contract, or agreement of any kind to which the corporation is a party;

(14) To include in any borrowing those amounts deemed necessary by the corporation to pay financing charges, capitalized interest, consultant, advisory, and legal fees and any other expenses necessary or incident to any borrowing;

(15) To make and publish administrative regulations respecting its lending programs and any other rules and regulations as are necessary to effectuate its corporate purposes;

(16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of KRS 247.940 to 247.978;

(17) To accept gifts, devises, bequests, grants, loans, appropriations, and other assistance and any other aid from any source whatsoever and to agree to and to comply with conditions attached thereto;

(18) To sue and be sued in its own name and in the name of any subsidiary corporation or entity which may be created pursuant to subsection (28) of this section;

(19) To maintain an office in the city of Frankfort and at any other place or places as it may determine;

(20) To employ fiscal consultants, engineers, attorneys, appraisers, and such other agents and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor;

(21) To invest any funds held in sinking funds, reserve funds, or trust fund accounts or any moneys not required for immediate disbursement by the corporation in:

(a) Obligations of or guaranteed by the Commonwealth, United States of America or their respective agencies and instrumentalities;

(b) Certificates of deposit and other evidences of deposit at state and federal chartered banks and savings and loan associations, fully collateralized as to any principal amount in excess of the amount insured by the United States government or any agency thereof;

(c) A guaranteed investment or similar contract, which provides for the investment of funds at a guaranteed rate of return, with an insurance company or depository financial institution with a claim paying rating of no less than either of the two (2) highest grades given by a nationally recognized rating agency; and

(d) Any other investment authorized by law for the investment of funds of the Commonwealth;

(22) Subject to the rights of holders of bonds of the corporation, to renegotiate, refinance, or foreclose on any mortgage, security interest, or lien; or commence any action to protect or enforce any right or benefit conferred upon the corporation by any law, mortgage, security interest, lien, contract, or other agreement; and bid for and purchase property at any foreclosure or at any other sale or otherwise acquire or take possession of any property; and in any such event, the corporation may complete, administer, pay the principal of and interest on any obligation incurred in connection with the property, dispose of and otherwise deal with the property in any manner as may be necessary or desirable to protect the interest of the corporation or of holders of its bonds therein;

(23) To insure, coinsure, reinsure, or cause to be insured, coinsured or reinsured, agricultural loans, mortgage loans, or mortgages, or any other type of loans, and pay or receive premiums on insurance, coinsurance, or reinsurance, and establish reserves for losses, and participate in the insurance, coinsurance, or reinsurance of agricultural loans, mortgage loans or mortgages, or any other type of loans with the federal or state government or any private insurance company;

(24) To undertake and carry out or authorize the completion of studies and analyses of agricultural conditions and needs within the Commonwealth and needs relating to the promotion of agricultural exports and ways of meeting the needs, and make the studies and analyses available to the public and to the agricultural industry, and to engage in research or disseminate information on agriculture and agricultural exports;

(25) To accept federal, state, or private financial or technical assistance and comply with any conditions for assistance, provided that those conditions are not in conflict with the intent of the provisions of KRS 247.940 to 247.978;

(26) To purchase, discount, sell, negotiate and guarantee, insure, co-insure and reinsure notes, drafts, checks, bills of exchange, acceptances, bankers' acceptances, cable transfers, letters of credit, and other evidence of indebtedness;

(27) To serve as the beneficiary of any public trust; and

(28) To create such subsidiary corporations or entities as may be necessary to borrow money, insure or reinsure agricultural loans, or issue bonds.

Section 665. KRS 248.705 is amended to read as follows:

(1) Forty million dollars ($40,000,000) of the moneys credited to the agricultural development fund as set out in KRS 248.703(1)(a) shall be set aside to supplement Phase II on April 26, 2000. Additional funds shall be set aside to supplement Phase II funding as needed from moneys credited to the agricultural development fund after June 30, 2000.

(2) Phase II payments shall be supplemented each year for tobacco growers and quota owners so that the total amount available for payment is maintained at one hundred fourteen million dollars ($114,000,000) each year. If the Phase II supplement set aside referred to in subsection (1) of this section falls below the amount needed to reach the one hundred fourteen million dollar ($114,000,000) level in any year before the end of the twelve (12) year Phase II funding program, procedures outlined in subsection (3) of this section shall be followed.

(3) (a) If the moneys set aside for Phase II supplement before June 30, 2000, become insufficient to continue to meet the yearly one hundred fourteen million dollar ($114,000,000) funding level, moneys needed to supplement Phase II funding to maintain funding at the 1999 level of one hundred fourteen million dollars ($114,000,000) per year for each of the remaining eleven (11) years of the Phase II funding program shall continue to be provided to the Phase II set aside from funds received in the tobacco settlement agreement fund after June 30, 2000. As Master Settlement Agreement funding becomes available after June 30, 2000, for calendar year 2001 and each year thereafter for the life of the Phase II payment program, the moneys needed for the Phase II supplement to assure availability of the one hundred fourteen million dollar ($114,000,000) funding level for that year shall be taken from the agricultural development fund. When a determination is made that funds are needed, funds shall be taken from the agricultural development fund before any other distributions are made following the next master settlement payment in April of each year. On the last year of distribution of the Phase II supplement funds, any excess funds beyond those needed to reach the one hundred fourteen million dollar ($114,000,000) level shall be returned to the agricultural development fund.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, if the moneys required to supplement the Phase II funding at the one hundred fourteen million dollar ($114,000,000) level are less than twenty million dollars ($20,000,000) in a year, the amount shall be deferred to a later year until at least a deficit of twenty million dollars ($20,000,000) is achieved before supplement payments are made.

(4) The Tobacco Settlement Trust Corporation created in KRS 248.480 shall provide for distribution of the Phase II supplement funds. The corporation shall use the same formula and process for distribution of the Phase II supplement funds as it uses for distributions under the regular Phase II payment program, except that the corporation shall send the list of supplement payment recipients to the *Department of* Revenue~~[Cabinet]~~ rather than to the trustee of the National Tobacco Grower Settlement Trust. The *Department of* Revenue~~[Cabinet]~~ shall process the information and issue the checks at no charge to the Agricultural Development Board. The

Phase II supplement funds shall be identified as supplement funds when distributed to tobacco growers and quota owners.

Section 666. KRS 248.750 is amended to read as follows:

As used in KRS 138.146 and 248.750 to 248.769:

(1) "*Department*~~[Cabinet]~~" means the *Department of* Revenue~~[Cabinet]~~;

(2) "Cigarettes" means cigarettes as defined in KRS 138.130;

(3) "Importer" means an importer as defined in 26 U.S.C. sec. 5702(l);

(4) "Manufacturer" means any person who manufactures or produces cigarettes within or without the Commonwealth;

(5) "Master settlement agreement" means the settlement agreement (and related documents) entered into on November 23, 1998, by Kentucky and leading United States tobacco product manufacturers;

(6) "Package" means package as is defined in 15 U.S.C. sec. 1332(4); and

(7) "Person" means person as defined in KRS 446.010.

Section 667. KRS 262.765 is amended to read as follows:

(1) The board of directors of a watershed conservancy district shall prepare and furnish to the property valuation administrator by January 1 each year a list of the landowners in each county involved showing the real property subject to assessment, and the property valuation administrator of the county or counties involved shall indicate, for the use of the clerk, such information on the tax rolls. The list furnished the property valuation administrator by the board of directors shall: list the landowners in alphabetical order by taxing districts as shown on the previous year's tax roll, list the total acreage and the acreage in the watershed conservancy district owned by each landowner, and show that part of the previous year's assessment attributable to real property within the watershed conservancy district on those parcels which are not entirely within the district.

(2) When the property tax rolls are delivered to the county clerk by the property valuation administrator, as required by law, the county clerk shall compute the tax due the district from each landowner in accordance with the rate fixed by the board of directors and the value or acreage of the real property indicated on the tax roll. The computation shall be made on the regular tax bills in such manner as may be directed by regulation of the *Department of* Revenue~~[Cabinet]~~.

Section 668. KRS 271B.14-220 is amended to read as follows:

(1) A corporation administratively dissolved under KRS 271B.14-210, or revoked under the provisions of KRS 271A.615, which was repealed by 1988 Ky. Acts, ch. 23, sec. 248, may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution or revocation. The application shall:

(a) Recite the name of the corporation and the effective date of its administrative dissolution or revocation;

(b) State that the ground or grounds for dissolution or revocation either did not exist or have been eliminated;

(c) State that the corporation's name satisfies the requirements of KRS 271B.4-010;

(d) Contain a certificate from the *Department of* Revenue~~[Cabinet]~~ reciting that all taxes owed by the corporation have been paid; and

(e) Be accompanied by the reinstatement penalty and the current fee for filing each delinquent annual report provided for in KRS 271B.1-220.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section and that the information is correct, he shall cancel the certificate of dissolution or revocation and prepare a certificate of existence that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation by mailing the notice by first class mail to the corporation at its registered office.

(3) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative dissolution or revocation and the corporation shall resume carrying on its business as if the administrative dissolution or revocation had never occurred.

(4) Notwithstanding any other provision to the contrary, any corporation which was administratively dissolved or revoked and has taken the action necessary to wind up and liquidate its business and affairs under KRS 271B.14-050, and notify claimants under KRS 271B.14-060 and 271B.14-070, shall be prohibited from reinstatement.

Section 669. KRS 273.3182 is amended to read as follows:

(1) A corporation administratively dissolved under KRS 273.318 or revoked under the provisions of KRS 273.367, which was repealed by 1988 Ky. Acts, ch. 23, sec. 248, may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution or revocation. The application shall:

(a) Recite the name of the corporation and the effective date of its administrative dissolution or revocation;

(b) State that the ground or grounds for dissolution or revocation either did not exist or have been eliminated;

(c) State that the corporation's name satisfies the requirements of KRS 273.177;

(d) Contain a certificate from the *Department of* Revenue~~[Cabinet]~~ reciting that all taxes owed by the corporation have been paid; and

(e) Be accompanied by the fee for filing a statement or report provided for in KRS 273.368(1)(j) and the current fee for filing each delinquent annual report provided for in KRS 273.368.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section and that the information is correct, he shall cancel the certificate of dissolution or revocation and prepare a certificate of existence that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation by mailing the notice by first class mail to the corporation at its registered office.

(3) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative dissolution or revocation and the corporation shall resume carrying on its business as if the administrative dissolution or revocation had never occurred.

Section 670. KRS 275.295 is amended to read as follows:

(1) The Secretary of State may commence a proceeding to administratively dissolve a limited liability company if:

(a) The limited liability company does not deliver its annual report to the Secretary of State within sixty (60) days after the annual report is due;

(b) The limited liability company is without a registered agent or registered office in Kentucky for at least sixty (60) days; or

(c) The limited liability company does not notify the Secretary of State within sixty (60) days after its registered agent or registered office has been changed, its registered agent has resigned, or its registered office has been discontinued.

(2) (a) If the Secretary of State determines that one (1) or more grounds exist under subsection (1) of this section for dissolving a limited liability company, the Secretary of State shall serve the limited liability company with written notice of the determination.

(b) If the limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days from the date on which notice was mailed, the Secretary of State shall administratively dissolve the limited liability company by signing a certificate of dissolution that states the ground or grounds for dissolution and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the limited liability company by mailing the notice by first class mail to the limited liability company at its registered office.

(3) (a) A limited liability company administratively dissolved under subsection (2) of this section may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution. The application shall:

1. State the name of the limited liability company and the effective date of its administrative dissolution;

2. State that the ground or grounds for dissolution either did not exist or have been eliminated;

3. State that the limited liability company's name satisfies the requirements under KRS 275.100;

4. Contain a certificate from the Kentucky *Department of* Revenue~~[Cabinet]~~ stating that all taxes owed by the limited liability company have been paid; and

5. Be accompanied by the reinstatement penalty and the current fee on filing each delinquent report as provided for in KRS 275.055(1).

(b) If the Secretary of State determines that the application contains the information required by paragraph (a) of this subsection and that the information is correct, the Secretary of State shall:

1. Cancel the certificate of dissolution and prepare a certificate of existence that states the determination and the effective date of existence; and

2. Serve a copy on the limited liability company.

(c) When the reinstatement is effective, the reinstatement shall relate back to and take effect as of the effective date of the administrative dissolution, and the limited liability company shall resume carrying on business as if the administrative dissolution had never occurred.

(4) (a) If the Secretary of State denies a limited liability company's application for reinstatement following administrative dissolution, the Secretary of State shall serve the limited liability company with a written notice that explains the reason or reasons for denial by mailing notice by first-class mail to the limited liability company at its registered office or, if none, to the last principal office identified on the most recent annual report.

(b) The limited liability company may appeal the denial of reinstatement to the Circuit Court of the county where the limited liability company's principal office, or, if there is none in Kentucky, its registered office, is located within thirty (30) days after service of the notice of denial by doing the following:

1. Filing a petition with the court to set aside the dissolution; and

2. Attaching to the petition a copy of the Secretary of State's certificate of dissolution, the limited liability company's application for reinstatement, and the Secretary of State's notice of denial.

(c) The court may order the Secretary of State to reinstate the dissolved limited company or may take other action the court considers appropriate.

(d) The court's final decision may be appealed as are other civil proceedings.

Section 671. KRS 278.130 is amended to read as follows:

(1) For the purpose of maintaining the commission, including the payment of salaries and all other expenses, and the cost of regulation of the utilities subject to its jurisdiction, the *Department of* Revenue~~[Cabinet]~~ shall each year assess the utilities in proportion to their earnings or receipts derived from intrastate business in Kentucky for the preceding calendar year as modified by KRS 278.150, and shall notify each utility on or before July 1 of the amount assessed against it. The total amount so assessed shall not in any year exceed two (2) mills on intrastate receipts as so modified, which shall be deposited into the State Treasury to the credit of the general fund. The sum by each utility shall not be less than fifty dollars ($50) in any one (1) year.

(2) The assessments provided for in this section shall be in lieu of all other fees or assessments levied by any city or other political subdivision for the control or regulation of utilities.

(3) The commission, upon application by a utility, shall authorize the utility to adjust its rates to recover, within not more than one (1) year, any change in the annual assessment and any costs imposed by commission order for the fees and expenses of consultants. The application, and any hearing or other proceedings thereon, shall be limited to the amount of such adjustment.

Section 672. KRS 278.150 is amended to read as follows:

(1) The commission shall, on or before June 1, certify to the *Department of* Revenue~~[Cabinet]~~ and the Finance and Administration Cabinet the amount of intrastate business of each utility in the state subject to its jurisdiction during the previous calendar year. The commission shall, when certifying the intrastate sales of retail electric suppliers, deduct from such sales one-half (1/2) of the applicable wholesale power costs, provided the utility from which such wholesale power purchases were made pays assessment on the full

wholesale value of its gross intrastate sales in Kentucky. When certifying the intrastate sales of retail electric suppliers not subject to the jurisdiction of the commission for rates, the commission shall deduct one-half (1/2) of their actual intrastate sales. All utilities classified as retail electric suppliers shall pay assessments based on the amount of intrastate sales less deductions as certified by the commission.

(2) The Finance and Administration Cabinet shall, on or before June 10, establish the assessment rate and give written notification thereof to the *Department of* Revenue~~[Cabinet]~~ and the commission. The *Department of* Revenue~~[Cabinet]~~ shall collect and pay the assessment into the State Treasury to the credit of the general expenditure fund. All such assessments shall be paid into the State Treasury through the *Department of* Revenue~~[Cabinet]~~ on or before July 31 of the year in which the assessments are made.

(3) If any amount in the special fund for the maintenance of the commission remains unexpended at the end of any fiscal year, that amount shall not lapse, but shall remain credited to the account of the commission and may be used during any succeeding year.

Section 673. KRS 281.625 is amended to read as follows:

(1) (a) Upon the filing of an application for a certificate or permit or for amendment or for sale, transfer, or lease, or for change in route, or for abandonment of a certificate or permit, the department shall, within a reasonable time, fix the time and place for a hearing.

(b) The department shall mail written notice of the hearing, and the right to file a protest, in accordance with the regulations of the department and KRS Chapter 13B, to the applicant and every authorized carrier, including railroads, serving any part of the route proposed to be served or abandoned by the applicant. The department may also give similar notice to any other person, who, in the opinion of the department, may be interested in or affected by the granting of the application.

(2) If a protest is filed, the department shall hold an administrative hearing on the application. The department, in its discretion, may hold a hearing if no protest is filed. Hearings conducted under this section shall be conducted in accordance with KRS Chapter 13B. Any person having interest in the subject matter may, in accordance with the regulations prescribed therefor, file a protest to the granting, in whole or in part, of the application.

(3) If the application is for a nonprofit bus certificate and no protest is filed, the department may grant the certificate without a hearing, provided the provisions of subsection (3) of KRS 281.630 or KRS 281.801 are met.

(4) The department may, if the application is solely for rights previously granted by the Interstate Commerce Commission, dispense with the holding of a hearing.

(5) Persons engaged in the transportation in interstate commerce in Kentucky of any commodity exempted by the Interstate Commerce Commission from regulation shall be subject to the same Kentucky requirements and regulations as if the persons were transporting commodities not exempted by the Interstate Commerce Commission, except that in lieu of filing or registering with the department a certificate of public convenience and necessity as issued by the Interstate Commerce Commission, the persons shall apply to the department for a permit or certificate restricted to interstate commerce and the permit or certificate may be issued without a hearing.

(6) If an applicant has been granted an irregular route common carrier certificate by the Interstate Commerce Commission, the department may grant an irregular route common carrier certificate restricted to operation in interstate commerce, and on the granting of same, it shall notify the *Department of* Revenue~~[Cabinet]~~ of the applicant's operation.

(7) The department may grant a permit, upon application, to operate a U-drive-it without the holding of a hearing.

Section 674. KRS 281.900 is amended to read as follows:

(1) The Kentucky Motor Carrier Advisory Committee is created as an agency of the Commonwealth to carry out the functions and duties conferred upon it by KRS 281.905.

(2) The committee shall consist of the secretary of the Transportation Cabinet, the secretary of the *Finance and Administration*~~[Revenue]~~ Cabinet, the Speaker of the House, the President of the Senate, or their respective designated representatives, and nine (9) representatives of the motor carrier industry engaged in operations in the Commonwealth in the transportation of persons or property.

(3) On July 15, 1990, the Governor shall appoint the motor carrier industry representative to the committee. Members shall be appointed by the Governor for three (3) years, except that initial appointments to the board shall be staggered in the following manner:

(a) Three (3) members shall serve for a period of one (1) year;

(b) Three (3) members shall serve for a period of two (2) years; and

(c) Three (3) members shall serve for a period of three (3) years.

(4) Motor carrier industry representatives of the committee shall qualify for membership by taking the constitutional oath of office and shall be provided with certificates of appointments. The members of the committee shall serve without per diem or compensation.

Section 675. KRS 287.235 is amended to read as follows:

(1) Common trust funds shall not be considered as an entity for income or other tax purposes, nor shall investment in such fund make taxable any property which is otherwise exempt therefrom; and for purposes of taxation, the status of the common trust fund and of each participant therein shall be determined as though there were no common fund and as though each participant was the owner of its proportionate share of every asset held in the common fund. The bank or trust company maintaining said fund shall file a report of said fund with the property valuation administrator as of the ad valorem tax date and shall file annually such income tax information as may be required by the *Department of* Revenue~~[Cabinet]~~.

(2) Notwithstanding subsection (1) of this section, if a common trust fund transfers substantially all of its assets to one (1) or more regulated investment companies in exchange solely for stock in the company or companies to which such assets are transferred and such stock is distributed by such common trust fund to the participants in such common trust fund in a transaction which would qualify under Section 584(h) of the Internal Revenue Code of 1986, as amended, for the nonrecognition of gain or loss of such transfer or distribution by the common trust fund, then no gain or loss shall be recognized for Kentucky income tax purposes by the common trust fund by reason of such transfer or distribution or by the participants in such common trust fund by reason of such exchange.

Section 676. KRS 299.530 is amended to read as follows:

All domestic mutual fire insurance companies referred to in KRS 299.470 or cooperative and assessment fire insurance shall by March 1 of each year, file with the *Department of* Revenue~~[Cabinet]~~ a report showing the amount of premiums contracted for by them in a reinsurance company during the preceding calendar year, and shall pay at the time of making the return a tax of two dollars ($2) on each one hundred dollars ($100) of the premiums paid to any company not authorized to do business in this state.

Section 677. KRS 304.4-030 is amended to read as follows:

Each domestic mutual insurer shall file with the *Department of* Revenue~~[Cabinet]~~ each year by March 1, a report showing the premiums paid by it during the preceding calendar year to all reinsurers, and shall accompany such report with payment of a tax of two percent (2%) of the amount of premiums so paid to insurers not authorized to transact business in this state at the time such reinsurance was so ceded.

Section 678. KRS 304.10-180 is amended to read as follows:

(1) Each broker shall pay the following taxes:

(a) A tax at the rate of three percent (3%) on the premiums, assessments, fees, charges, or other consideration deemed part of the premium as defined in KRS 304.14-030, on surplus lines insurance subject to tax transacted by him or her with unauthorized insurers during the preceding calendar quarter as shown by his or her quarterly statement filed with the commissioner in accordance with KRS 304.10-170. The tax shall not be assessed on the premium surcharge tax, the local government premium tax, or any other state or federal tax. The tax shall be remitted to the commissioner within thirty (30) days of the end of each calendar quarter. When collected the tax shall be credited to the insurance regulatory trust fund, as established by KRS 304.2-400;

(b) The premium surcharge tax, to be remitted to the Kentucky *Department of* Revenue~~[Cabinet]~~, in accordance with KRS 136.392; and

(c) The local government premium tax, to be remitted to the appropriate city, county, or urban-county government taxing authority, in accordance with KRS 91A.080.

(2) If a surplus lines policy covers risks or exposures only partially in this state the tax so payable shall be computed upon the proportion of the premium which is properly allocable to the risks or exposures located in this state.

Section 679. KRS 304.13-011 is amended to read as follows:

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

(1) A "market" is the interaction between buyers and sellers consisting of a product market component and a geographic market component. A product market component consists of identical or readily substitutable products including but not limited to consideration of coverage, policy terms, rate classifications, and underwriting. A geographic market component is a geographical area in which buyers have a reasonable degree of access to insurance sales outlets. Determination of a geographic market component shall consider existing market patterns.

(2) "Supplementary rating information" includes any manual or plan of rates, classification, rating schedule, minimum premium, policy fees, rating rules, or any other similar information needed to determine the applicable rate or premium. This shall include underwriting rules, but only to the extent necessary to determine the rate or premium that will be applicable to a risk should the insurer decide to provide coverage. This does not include guidelines that relate to the selection of those risks that are acceptable to an insurer.

(3) "Supporting information" is the experience and judgment of the filer and the experience or data of other insurers or organizations relied on by the filer, the interpretation of any other data relied on by the filer, descriptions of methods used in making the rates, and any other information required to be filed by the commissioner.

(4) "Personal risks" means homeowners, tenants, private passenger nonfleet automobiles, mobile homes, and other property and casualty insurance for personal, family, or household needs.

(5) "Commercial risks" are any kinds of risks that are not personal risks.

(6) "Joint underwriting" is a voluntary arrangement established to provide insurance coverage for a risk pursuant to which two (2) or more insurers jointly contract with the insured at a price and under policy terms agreed on between the insurers.

(7) A "pool" is a voluntary arrangement, other than by a contract of reinsurance, established on a general and continuing basis pursuant to which two (2) or more insurers participate in the sharing of risks on a predetermined basis. A pool may operate through an association, syndicate or other pooling agreement.

(8) A "residual market mechanism" is an agreement, either voluntary or mandated by law, involving participation by insurers in the equitable apportionment among them of insurance that may be afforded applicants who are unable to obtain insurance through ordinary methods.

(9) An "advisory organization" is any entity, including its affiliates or subsidiaries, which either has two (2) or more member insurers or is controlled either directly or indirectly by two (2) or more insurers and which assists insurers in ratemaking related activities. Two (2) or more insurers having a common ownership or operating in this state under common management or control constitute a single insurer for purposes of this definition.

(10) A "competitive market" is a market that has not been found to be noncompetitive pursuant to KRS 304.13-041 and for which no such order is in effect.

(11) A "noncompetitive market" is a market for which there is an order in effect pursuant to KRS 304.13-041 that a reasonable degree of competition does not exist.

(12) "Trending" is any procedure for projecting developed losses to the average date of loss, or premiums or exposures to the average date of writing, for the period during which the policies are to be effective.

(13) "Expenses" are those portions of any rate attributable to acquisition, field supervision, and collection expenses, general expenses, and premium taxes, licenses, and fees.

(14) "Profit" is the portion of any rate attributable to funds needed for growth, contingencies, and return to stockholders.

(15) "Pure premium" means the loss cost per unit of exposure excluding all loss adjustment expenses.

(16) "Classification system" or "classification" means the process of grouping risks with similar risk characteristics so that differences in cost may be recognized.

(17) "Developed losses" means losses (including loss adjustment expenses) adjusted, using standard actuarial techniques, to their ultimate anticipated value.

(18) “Experience rating” means a rating procedure utilizing past insurance experience of the individual policyholder to forecast future losses by measuring the policyholder’s loss experience against the loss experience of policyholders in the same classification to produce a prospective premium credit, debit, or unity modification.

(19) “Form provider” means a person who prepares, files, and distributes policy contract forms and endorsements and consults with members, subscribers, customers, or others relative to their use and application, but is not an advisory organization as defined in this subtitle.

(20) “Loss adjustment expenses” means the expenses incurred by the insurer in the course of settling claims.

(21) “Prospective loss costs” means that portion of a rate that does not include provisions for expenses (other than loss adjustment expenses) or profit, and are based on historical aggregate losses or output from simulation models and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time. Loss costs, derived in part or entirely upon output form simulation models, must be approved by the commissioner before they become effective.

(22) “Rate” means the expected value of the future cost of insurance per exposure unit which accounts for the treatment of losses, expenses, and profit prior to any application of individual risk variations based on loss or expense considerations, but does not include minimum premium.

(23) “Special assessments” means guaranty fund assessments, residual market mechanism assessments, and other similar assessments which are included in ratemaking. Special assessments shall not be considered as either expenses or losses. Additional charges collected by the insurer and returned to a governmental agency on behalf of an insured are not special assessments. Examples of these additional charges include, but are not limited to, the special fund charge for workers’ compensation imposed by KRS Chapter 342, local government premium tax imposed by KRS 91A.080, and the *Department of* Revenue~~[Cabinet]~~ surcharge imposed by KRS Chapter 136.

(24) “Statistical agent” means an entity that has been licensed by the commissioner to collect statistics from insurers and provide reports developed from these statistics to the commissioner for the purpose of fulfilling the statistical reporting obligations of those insurers under this chapter.

Section 680. KRS 304.49-220 is amended to read as follows:

(1) Every captive insurer holding a certificate of authority under KRS 304.49-010 to 304.49-230 shall return to the *Department of* Revenue~~[Cabinet]~~ a statement under oath of all premium receipts on business written by the captive insurer during the preceding year and shall pay, on or before March 1 in each year, a tax at the rate of four-tenths of one percent (0.4%) on the first twenty million dollars ($20,000,000), and three-tenths of one percent (0.3%) on the next twenty million dollars ($20,000,000), and two-tenths of one percent (0.2%) on the next twenty million dollars ($20,000,000), and seventy-five thousandths of one percent (0.075%) on each dollar thereafter on the direct premiums collected or contracted for on policies or contracts of insurance written by the captive insurer during the year ending December 31 next preceding, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums, which shall include dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

(2) Every captive insurer holding a certificate of authority under KRS 304.49-010 to 304.49-230 shall return to the *Department of* Revenue~~[Cabinet]~~ a statement under oath of all assumed reinsurance premium receipts during the preceding year and shall pay, on or before March 1 in each year, a tax at the rate of two hundred twenty-five thousandths of one percent (0.225%) on the first twenty million dollars ($20,000,000) of assumed reinsurance premiums, and one hundred fifty thousandths of one percent (0.150%) on the next twenty million dollars ($20,000,000), and fifty thousandths of one percent (0.050%) on the next twenty million dollars ($20,000,000), and twenty-five thousandths of one percent (0.025%) of each dollar thereafter. However, no reinsurance tax applies to premiums for risks or portions of risks which are subject to taxation on a direct basis pursuant to subsection (1) of this section. No reinsurance premium tax shall be payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if the transaction is part of a plan to discontinue the operations of the other

insurer, and if the intent of the parties to the transaction is to renew or maintain the business with the captive insurer.

(3) If the aggregate taxes to be paid by a captive insurer calculated under subsections (1) and (2) of this section amount to less than five thousand dollars ($5,000) in any year, the captive insurer shall pay a tax of five thousand dollars ($5,000) for such year.

(4) Two (2) or more captive insurance companies under common ownership and control shall be taxed as though they were a single captive insurer.

(5) For the purposes of this section, common ownership and control shall mean:

(a) In the case of stock corporations, the direct or indirect ownership of eighty percent (80%) or more of the outstanding voting stock of two (2) or more corporations by the same shareholder or shareholders; and

(b) In the case of mutual corporations, the direct or indirect ownership of eighty percent (80%) or more of the surplus and the voting power of two (2) or more corporations by the same member or members.

(6) In the case of a branch captive insurer, the tax provided for in this section shall apply only to the branch business of the company.

(7) The tax provided for in this section shall constitute all taxes collectible under the laws of Kentucky from any captive insurer, and the taxes imposed under this section shall be in lieu of all excise, license, occupational, or other taxes imposed by the state, county, city, or other taxing district except as provided in KRS 136.320(6) and (7).

(8) The Kentucky *Department of* Revenue~~[Cabinet]~~ shall annually distribute ten percent (10%) of the premium tax revenues collected pursuant to this section to the Department of Insurance for the regulation of captive insurance companies under KRS 304.49-010 to 304.49-230.

Section 681. KRS 342.122 is amended to read as follows:

(1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose of funding and prefunding the liabilities of the special fund, financing the administration and operation of the Kentucky Workers' Compensation Funding Commission, and financing the expenditures for all programs in the Labor Cabinet, except the Division of Employment Standards, Apprenticeship and Training and the Office of Labor-Management Relations and Mediation, as reflected in the enacted budget of the Commonwealth and enacted by the General Assembly, the funding commission shall impose a special fund assessment rate of nine percent (9%) upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his or her own risk.

(b) The funding commission shall, for calendar year 1998 and thereafter, establish for the special fund an assessment rate to be assessed against all premium received during that calendar year which, when added to the coal severance tax appropriated to the special fund in accordance with paragraph (c) of this section, shall produce enough revenue to amortize on a level basis the unfunded liability of the special fund as of September 1 preceding January 1 of each year, for the period remaining until December 31, 2018. The interest rate to be used in this calculation shall reflect the funding commission's investment experience to date and the current investment policies of the commission. This assessment shall be imposed upon the amount of workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

(c) In addition to the assessment imposed in paragraph (a) or (b) of this subsection, and notwithstanding and prior to the transfer of funds to the Local Government Economic Assistance Program under KRS 42.450 to 42.495, the Kentucky *Department of* Revenue~~[Cabinet]~~ shall credit nineteen million dollars ($19,000,000) in coal severance tax revenues levied under KRS 143.020 to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission each year beginning with fiscal year 1998 and all fiscal years thereafter. The annual transfer of nineteen million dollars ($19,000,000) shall occur in four (4) equal quarterly payments. These transfers shall occur not later than the last day of each

quarter of each calendar year and shall consist of four (4) equal payments of four million, seven hundred fifty thousand dollars ($4,750,000).

(d) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission.

(e) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on workers' compensation premiums.

(2) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received. Receipt shall be considered timely through actual physical receipt or by postmark of the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.

(3) The assessments imposed by this section may be collected by the insurance carrier from his insured. However, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. If the insurance carrier collects the assessment from an insured, the assessment shall be collected at the same time and in the same proportion as the premium is collected. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages imposed by this chapter. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. The percentages imposed by this chapter for an insurance policy issued by an insurance company shall be those percentages in effect on the annual effective date of the policy, regardless of the date that the premium is actually received by the insurance company.

(4) A group self-insurance association may elect to report its premiums and to have its assessments computed in the same manner as insurance companies. This election may not be rescinded for at least ten (10) years, nor may this election be made a second time for at least another ten (10) years, except that the board of directors of the funding commission may, at its discretion, waive the ten (10) year ban on a case-by-case basis after formal petition has been made to the funding commission by a group self-insurance association.

(5) The funding commission, as part of the collection and auditing of the special fund assessments required by this section, shall annually require each insurance carrier and each group self-insurer to provide a list of employers which it has insured or which are members and the amount collected from each employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or group self-insurer may require its insureds or members to furnish the SIC code for each of their employees. However, the failure of any employer to furnish said codes shall not relieve the insurance carrier or group self-insurer from the obligation to furnish same to the funding commission. The Department for Employment Services, Cabinet for Workforce Development is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

(6) Each self-insured employer, group self-insurer, or insurance carrier shall provide any information and submit any reports the *Department of* Revenue~~[Cabinet]~~ or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.

(7) The special fund shall be required to maintain a central claim registry of all claims to which it is named a party, giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. The registry shall be established by January 26, 1988, for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund.

(8) The fund heretofore designated as the subsequent claim fund is abolished, and there is substituted therefor the special fund as set out by this section, and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

(9) Notwithstanding any other provisions of this section or this chapter to the contrary, the total amount of funds collected pursuant to the assessment rates adopted by the funding commission shall not be limited to the provisions of this section.

(10) All assessment rates imposed for periods prior to January 1, 1997, under KRS 342.122 shall forever remain applicable to premiums received on policies with effective dates prior to January 1, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provision of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

Section 682. KRS 342.1223 is amended to read as follows:

(1) The Kentucky Workers' Compensation Funding Commission is created as an agency of the Commonwealth for the public purpose of controlling, investing, and managing the funds collected pursuant to KRS 342.122.

(2) The commission shall:

(a) Hold, administer, invest, and reinvest the funds collected pursuant to KRS 342.122 and its other funds separate and apart from all "state funds" or "public funds," as defined in KRS Chapter 446;

(b) Act as a fiduciary, as defined in KRS Chapter 386, in exercising its power over the funds collected pursuant to KRS 342.122, and may invest association funds through one (1) or more banks, trust companies, or other financial institutions with offices in Kentucky in good standing with the Department of Financial Institutions, in investments described in KRS Chapter 386, except that the funding commission may, at its discretion, invest in nondividend-paying equity securities;

(c) Report to the General Assembly at each even-numbered-year regular session the actuarial soundness and adequacy of the funding mechanism for the special fund and other programs supported by the mechanism, including detailed information on the investment of funds and yields thereon;

(d) Recommend to the General Assembly, not later than October 31 of the year prior to each even-numbered-year regular legislative session, changes deemed necessary in the level of the assessments imposed in this chapter;

(e) In conjunction with the Labor Cabinet, submit to the General Assembly, not later than October 31 of the year prior to each even-numbered-year regular legislative session, a proposed budget for the biennium beginning July 1 following the even-numbered-year regular session of the General Assembly;

(f) In conjunction with the Labor Cabinet, provide to the Interim Joint Committee on Appropriations and Revenue an annual budget and detailed quarterly financial reports;

(g) Conduct periodic audits, independently or in cooperation with the Labor Cabinet or the *Department of* Revenue~~[Cabinet]~~, of all entities subject to the assessments imposed in this chapter; and

(h) Report monthly to the Committees on Appropriations and Revenue and on Labor and Industry its monthly expenditures of restricted agency funds and the nature of the expenditures.

(3) The commission shall have all of the powers necessary or convenient to carry out and effectuate the purposes for which it was established, including, but not limited to, the power:

(a) To sue and be sued, complain, or defend, in its name;

(b) To elect, appoint, or hire officers, agents, and employees, and define their duties and fix their compensation within the limits of its budget approved by the General Assembly;

(c) To contract for investment counseling, legal, actuarial, auditing, and other professional services in accordance with the provisions relating to personal service contracts contained in KRS Chapter 45A;

(d) To appoint, hire, and contract with banks, trust companies, and other entities to serve as depositories and custodians of its investment receipts and other funds;

(e) To take any and all other actions consistent with the purposes of the commission and the provisions of this chapter; and

(f) To make and promulgate administrative regulations.

(4) Notwithstanding the provisions of this chapter to the contrary, the Kentucky Workers' Compensation Funding Commission shall utilize the investment expertise and advice of the Office of Financial Management *in the*

Office of the Controller within the Finance and Administration Cabinet rather than entering into a consulting contract for investment counseling. The fees charged by financial institutions for managing the investments of the funds of the funding commission shall be paid from the investment earnings of the funds.

(5) The commission shall be attached to the Labor Cabinet for administrative purposes only.

Section 683. KRS 342.1224 is amended to read as follows:

(1) The commission shall be governed by a board of directors consisting of seven (7) members. The seven (7) members shall include the secretary of the Labor Cabinet, the secretary of the Cabinet for Economic Development or a designee, the secretary of the *Finance and Administration* ~~[Revenue]~~ Cabinet *or a designee*, and four (4) members who shall be appointed by the Governor.

(2) The four (4) appointed members shall include:

(a) One (1) member, selected from a list of three (3) submitted by the secretary of labor, who shall represent labor;

(b) One (1) member, selected from a list of three (3) submitted by the secretary for economic development, who shall represent employers, provided, however, that these three (3) members shall represent employers who purchase workers' compensation coverage for their employees from insurance companies writing workers' compensation insurance in the Commonwealth;

(c) One (1) member, selected from a list of three (3) submitted by the insurance advisory organization having jurisdiction over Kentucky, who shall represent insurance companies writing workers' compensation insurance in the Commonwealth; and

(d) One (1) member, selected from a list of three (3) submitted by the associations representing self-insured employers in the Commonwealth.

(3) The members of the board of directors shall serve a term of four (4) years, except that the initial terms of the members shall be staggered as follows:

(a) The initial member appointed by the Governor to represent labor shall serve a term of one (1) year. Thereafter, such member shall serve a term of four (4) years;

(b) The initial member appointed by the Governor to represent employers shall serve a term of two (2) years. Thereafter, such member shall serve a term of four (4) years;

(c) The initial member appointed by the Governor to represent insurance companies shall serve a term of four (4) years. Thereafter, such member shall serve a term of four (4) years; and

(d) The initial member appointed by the Governor to represent self-insured employers shall serve a term of three (3) years. Thereafter, such member shall serve a term of four (4) years.

(4) The board of directors shall annually elect from among its members a chairman, a vice chairman, and a secretary-treasurer. The board of directors may also elect or appoint, and prescribe the duties of, other officers as the board of directors deems necessary or advisable.

(5) The board of directors shall appoint an executive director to administer, manage, and direct the affairs and business of the commission, and other staff persons to carry out the affairs and business of the commission, subject in each instance to the policies, control, and directions of the board of directors. The board of directors shall fix the compensation of all such persons and shall pay such compensation out of the funds of the commission.

(6) Notwithstanding any other law, the Governor, pursuant to an executive order, may cause the employees of the commission to be eligible to participate in the Kentucky Retirement System and the Kentucky Public Employees Deferred Compensation System.

(7) A majority of the board of directors of the commission shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. The majority shall be determined by excluding any existing vacancies from the total number of directors.

(8) The board of directors of the Kentucky Workers' Compensation Funding Commission are hereby determined to be officers and agents of the Commonwealth of Kentucky and, as such, shall enjoy the same immunities from suit for the performance of their official acts as do other officers of the Commonwealth of Kentucky.

Section 684. KRS 342.447 is amended to read as follows:

(1) All funds collected by insurance companies from their insureds, prior to October 26, 1987, for assessments of the Kentucky Reinsurance Association or special fund taxes and assessments of the Kentucky *Department of* Revenue~~[Cabinet]~~ not previously paid, shall be paid in full by January 1, 1988, to the Kentucky Workers' Compensation Funding Commission.

(2) To ensure compliance with the provisions of subsection (1) of this section, the *Department of* Revenue~~[Cabinet]~~ shall conduct audits of insurance companies. The costs of such audits shall be borne by the Kentucky Workers' Compensation Funding Commission. The *Department of* Revenue~~[Cabinet]~~ may enter an agreement with the Department of Insurance for assistance in conducting such audits or it may hire additional auditors on a temporary basis. The audits shall commence within sixty (60) days from October 26, 1987, and shall be completed within six (6) months. The aggregate findings of such audits shall be presented to the *commissioner*~~[secretary]~~ of revenue, the commissioner of insurance, the Kentucky Workers' Compensation Funding Commission, and the Governor.

(3) If the audits reveal noncompliance with subsection (1) of this section, the *Department of* Revenue~~[Cabinet]~~ shall notify the affected party of such fact. The affected party shall remit the amount in question not later than thirty (30) days following notification and the *Department of* Revenue~~[Cabinet]~~ shall institute a civil action in Franklin Circuit Court if remittance is not made within such thirty (30) day period.

(4) The failure of an insurance company to comply with the provisions of this section shall constitute grounds for the revocation by the commissioner of insurance of such entity's authority to write workers' compensation coverage in the Commonwealth.

(5) The *Department of* Revenue~~[Cabinet]~~ shall report to the commissioner of insurance the failure of any insurance company to comply with the provisions of this section and the commissioner shall institute revocation procedures of such entity's authority to write workers' compensation coverage in the Commonwealth.

(6) "Funds collected" as used in subsection (1) of this section shall mean all funds collected without reduction for credits, refund, or returns of any type made to insureds or group members after September 1, 1987.

Section 685. KRS 351.175 is amended to read as follows:

(1) The operation of a coal mine in Kentucky is a privilege granted by the Commonwealth of Kentucky to a licensee who satisfies the requirements of this section and demonstrates that the mine is or will be operated in a safe manner and in accordance with the laws of this Commonwealth.

(2) Within forty-five (45) days after January 1, 1953, and of each year thereafter, the owner, operator, lessee, or licensee of each mine shall procure from the department a license to operate the mine, and the license shall not be transferable. Any owner, operator, lessee, or licensee who assumes control of a mine, opens a new mine, or reopens an abandoned mine during any calendar year shall procure a license before mining operations are begun.

(3) The license shall be in printed form as the commissioner may prescribe and when issued shall be kept posted at a conspicuous place near the main entrance of the mine.

(4) Requests for a license shall be made to the department and shall be accompanied by a United States postal money order or cashier's check drawn in favor of the State Treasurer in an amount established by administrative regulations of a minimum of one hundred dollars ($100) and a maximum of fifteen hundred dollars ($1,500). When the annual report of the licensee and the annual mine map, as required by KRS 351.170 and 352.450, together with a certification from the commissioner of the Department of Workers' Claims that the applicant for license has presented positive proof of compliance with the provisions of KRS Chapter 342, and a certification from the *commissioner*~~[secretary]~~ of the *Department of* Revenue~~[Cabinet]~~ that the applicant is not a "delinquent taxpayer" as defined in KRS Chapter 131, are properly submitted to the department, the license shall be issued. The commissioner *of the Department of Mines and Minerals* or his accredited agents shall have the authority to extend the time for filing of the map not to exceed an additional forty-five (45) days. Upon receipt of withdrawal of the certification of the commissioner of the Department of Workers' Claims, or upon receipt of notice from the *commissioner*~~[secretary]~~ of revenue that the licensee is a "delinquent taxpayer," as defined in KRS Chapter 131, the department shall forthwith revoke any license issued. Revocation of a license shall be an administrative function of the department. Appeal of the revocation of a license shall lie in the Fayette Circuit Court.

(5) The mine inspector shall have the authority to stop production or close any mine whose operator fails to procure a license or fails to furnish a certification of workers' compensation coverage as required under this section.

(6) The department shall be authorized to seek injunctive relief for any violation of this section.

(7) A license which has been revoked under the "delinquent taxpayer" provision shall not be reissued until a written tax clearance has been received from the *commissioner*~~[secretary]~~ of revenue.

(8) No mine underlying a cemetery shall be licensed by the commissioner unless two-thirds (2/3) of the governing body of that cemetery vote in approval of the operation. The application for a license shall contain an affidavit setting forth the approval of the cemetery's governing body. This subsection applies only to those cemeteries with governing bodies.

Section 686. KRS 353.205 is amended to read as follows:

(1) The *Department of* Revenue~~[Cabinet]~~ shall submit to the department on or before September 1 of each year, beginning in 1995 for 1994 production data, statistics on crude oil as reported to the *Department of* Revenue~~[Cabinet]~~ under the crude oil excise tax requirements of KRS Chapter 137 and statistics on natural gas production as reported to the *Department of* Revenue~~[Cabinet]~~ under the natural resources severance tax requirements of KRS Chapter 143A.

(2) The department shall organize the information it receives from the *Department of* Revenue~~[Cabinet]~~ into a standard format, and shall make it available for public release no earlier than January 1 nor later than March 1 of the following year, with the exception of the first year, when data shall be made available by September 1, 1996. The information shall be open for public inspection and available for sale at the offices of the department. The department may allow the Kentucky Geological Survey to use the production information in ongoing research as soon as it is obtained from the *Department of* Revenue~~[Cabinet]~~, so long as the information is not released to the public before January 1 of the year after it is reported.

(3) The *Department of* Revenue~~[Cabinet]~~ shall submit to the department the oil and gas production data which was reported in years prior to 1995, and the department shall make this information available for public release when it has been processed.

Section 687. KRS 365.270 is amended to read as follows:

As used in KRS 365.260 to 365.380, unless the context otherwise requires:

(1) "Person" means and includes any individual, firm, association, company, partnership, corporation, joint stock company, club, agency, syndicate, the Commonwealth of Kentucky and any municipal corporation or other political subdivision of this state, trust, receiver, trustee, fiduciary, or conservator.

(2) "*Commissioner*~~[Secretary]~~" means the *commissioner*~~[secretary]~~ of the *Department of* Revenue~~[Cabinet]~~ of the Commonwealth of Kentucky.

(3) "*Department*~~[Cabinet]~~" means the *Department of* Revenue~~[Cabinet]~~.

(4) "Cigarettes" means and includes any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

(5) "Wholesaler" means any person who sells cigarettes at wholesale or distributes cigarettes to be sold at retail, and includes any manufacturer, distributor, jobber, subjobber as defined in KRS 138.130(11), broker, agent, or other person, whether or not enumerated in this subsection, who sells or distributes cigarettes.

(6) "Retailer" means and includes any person who sells cigarettes in this state to a consumer or to any person for any purpose other than resale.

(7) "Sale" or "sell" means any transfer for consideration or gift.

(8) "Sell at wholesale," "sale at wholesale," and "wholesale sales" means and includes any sale made in the ordinary course of trade or usual conduct of the wholesaler's business to a retailer for the purpose of resale.

(9) "Sell at retail," "sale at retail," or "retail sales" means and includes any sale for consumption or use made in the ordinary course of trade or usual conduct of the seller's business.

(10) "Basic cost of cigarettes" means the invoice cost of cigarettes to the wholesaler or retailer, as the case may be, less all trade discounts, except customary cash discounts, plus the full face value of any stamps or any tax which may be required by any cigarette tax act of this state or political subdivision thereof, now in effect or hereafter enacted, if not already included in the invoice cost of the cigarettes to the wholesaler or retailer, as the case may be.

(11) (a) "Cost to wholesaler" means the basic cost of the cigarettes involved to the wholesaler plus the cost of doing cigarette business by the wholesaler. In determining the cost of doing cigarette business by the wholesaler, the cost of doing business by the wholesaler shall first be determined by applying the standards and methods of accounting regularly employed by him, and includes labor costs, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the wholesaler shall then be multiplied by the fraction obtained through dividing the wholesaler's cigarette sales for the preceding six (6) months by the wholesaler's total sales for the same period and the product thereof shall be the cost of doing cigarette business.

(b) In the absence of proof of a lesser or higher cost of doing cigarette business by the wholesaler making the sale, the cost of doing cigarette business by the wholesaler shall be presumed to be two percent (2%) of the basic cost of the cigarettes to the wholesale dealer, plus cartage to the retail outlet, if performed or paid for by the wholesale dealer. Cartage cost, in the absence of proof of a lesser or higher cost, shall be presumed to be three-fourths of one percent (0.75%) of the basic cost of the cigarettes to the wholesaler.

(12) (a) "Cost to the retailer" means the basic cost of cigarettes involved to the retailer plus the cost of doing cigarette business by the retailer. In determining the cost of doing cigarette business by the retailer, the cost of doing business by the retailer shall first be determined by applying the standards and methods of accounting regularly employed by him and includes labor, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the retailer shall then be multiplied by the fraction obtained through dividing the retailer's cigarette sales for the preceding six (6) months by the retailer's total sales for the same period and the product thereof shall be the cost of doing cigarette business.

(b) In the absence of proof of a lesser or higher cost of doing cigarette business by the retailer making the sale, the cost of doing cigarette business by the retailer shall be presumed to be eight percent (8%) of the basic cost of cigarettes to the retailer.

Section 688. KRS 365.350 is amended to read as follows:

(1) The *department*~~[cabinet]~~, or any person injured by any violation, or who may suffer injury from any threatened violation of KRS 365.260 to 365.380, may maintain an action in any court of equitable jurisdiction to prevent, restrain, or enjoin the violation or threatened violation. If a violation or threatened violation of KRS 365.260 to 365.380 shall be established, the court shall enjoin and restrain, or otherwise prohibit, the violations or threatened violation. In addition, the court shall assess in favor of the plaintiff and against the defendant the cost of the suit, including reasonable attorney's fees. It shall not be necessary that actual damages to the plaintiff be alleged or proved, but if alleged and proved, the plaintiff in the action, in addition to injunctive relief, the costs of the suit, and reasonable attorney's fees, shall be entitled to recover from the defendant the actual damages sustained by him.

(2) If no injunctive relief is sought or required, any person injured by a violation of KRS 365.260 to 365.380 may maintain an action for damages and the costs of suit in any court of general jurisdiction.

Section 689. KRS 365.370 is amended to read as follows:

(1) The *department*~~[cabinet]~~ shall promulgate administrative regulations for the enforcement of KRS 365.260 to 365.380 and may from time to time undertake and make or cause to be made one (1) or more cost surveys for the state or trading area or areas as it defines. When each survey is made by or approved by the *department*~~[cabinet]~~, it may use the cost survey as provided in subsection (2) of KRS 365.320 and subsection (2) of 365.360.

(2) The *department*~~[cabinet]~~ may, upon notice and after hearing, revoke or suspend any license issued under KRS 138.195 and the administrative regulations of the *department*~~[cabinet]~~ promulgated thereunder, for failure of any person to comply with any provisions of KRS 365.260 to 365.380 or any administrative regulation adopted thereunder.

(3) All of the powers vested in the *commissioner*~~[secretary]~~ and *Department of* Revenue~~[Cabinet]~~ by the provisions of the cigarette tax law shall be available for the enforcement of KRS 365.260 to 365.380.

(4) Any person aggrieved by any decision, order, or finding of the *Department of Revenue*~~[cabinet]~~, suspending or revoking any license, may appeal to the Kentucky Board of Tax Appeals by filing a petition of appeal with the board in the manner and form and within the time and subject to the terms and conditions as the board shall by administrative regulation prescribe.

Section 690. KRS 365.390 is amended to read as follows:

(1) To provide for the enforcement of KRS 138.146 and KRS 365.260 to 365.380, every cigarette wholesaler licensed under KRS 138.195 shall pay an enforcement and administration fee to the *Department of* Revenue~~[Cabinet]~~ on a monthly basis for each package of twenty (20) cigarettes to which evidence of Kentucky cigarette tax was affixed during the month as required by KRS 138.146. The enforcement and administration fee to recover applicable costs shall be calculated annually by the *commissioner*~~[secretary]~~ of revenue who shall give notice thereof to licensed wholesalers who shall be liable for its payment. Payments to the *Department of* Revenue~~[Cabinet]~~ shall be made according to provisions of KRS 138.195 and shall be subject to the same penalties and interest as levied on Kentucky cigarette tax not paid on or before the due date.

(2) There is hereby created within the *Department of* Revenue~~[Cabinet]~~ a cigarette enforcement and administration account, which will be subject to the provisions of the restricted fund group, as provided in KRS 45.305, and all funds collected under subsection (1) of this section shall be credited thereto with only the expenses of the *Department of* Revenue~~[Cabinet]~~ related to the administration and enforcement of KRS 138.146 and KRS 365.260 to 365.380 to be paid therefrom.

(3) The enforcement and administration fee levied in subsection (1) of this section shall be deemed to be an additional cost to be included in the basic cost of cigarettes as defined in KRS 365.270.

Section 691. KRS 365.665 is amended to read as follows:

Any transient merchant desiring to transact business in any county in this state shall make application for and obtain a permit in each county in which the merchant desires to transact business at least ten (10) days prior to transacting business in the county. The application for permit shall be designed and distributed by the *Department of* Revenue~~[Cabinet]~~, shall be filed by the transient merchant with the county clerk, or the officer of an urban-county government having the responsibility for the issuance of business permits and licenses generally and shall include but not be limited to the following information:

(1) The name and permanent address of the transient merchant making the application, and if the applicant is a firm or corporation, the name and address of the members of the firm or the officers of the corporation;

(2) If the applicant is a corporation, there shall be stated on the application form the date of incorporation, the state of incorporation, and if the applicant is a corporation formed in a state other than Kentucky, the date on which such corporation qualified to transact business as a foreign corporation in this state;

(3) A statement showing the kind of business proposed to be conducted, the length of time for which the applicant desires to transact such business and the location of the proposed place of business;

(4) An estimate of the aggregate market value of any goods, wares or merchandise to be offered for sale during the permit period;

(5) A statement that the applicant has acquired all other required city, county and state permits and licenses;

(6) The applicant's sales and use tax permit number or temporary vendor's registration number, and the Social Security numbers, of all salesmen employed by the applicant, or representing the applicant, in the transaction of business in the Commonwealth of Kentucky;

(7) The name and permanent address of the transient merchant's registered agent or office; and

(8) Evidence of security as outlined in KRS 365.680. The absence of any of the above information shall result in the denial of the permit by the county clerk.

Section 692. KRS 365.670 is amended to read as follows:

The county clerk shall forward a copy of each approved application to the *Department of* Revenue~~[Cabinet]~~ and to the office of the Attorney General within ten (10) days of approval.

Section 693. KRS 369.118 is amended to read as follows:

(1) Except as otherwise provided in KRS 369.112(6), each governmental agency of this state, in compliance with standards established by the *Commonwealth Office of*~~[Governor's Office for]~~ Technology, shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

(2) To the extent that a governmental agency uses electronic records and electronic signatures under subsection (1) of this section:

(a) The *Commonwealth Office of*~~[Governor's Office for]~~ Technology, giving due consideration to security, may specify the manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes;

(b) If electronic records must be signed by electronic means, each governmental agency, giving due consideration to security, may specify the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process;

(c) The *Commonwealth Office of*~~[Governor's Office for]~~ Technology and the Department for Libraries and Archives, giving due consideration to security, may specify control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records; and

(d) Each governmental agency, giving due consideration to security, may specify any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

(3) Except as otherwise provided in KRS 369.112(6), KRS 369.101 to 369.120 does not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

Section 694. KRS 369.119 is amended to read as follows:

The *Commonwealth Office of*~~[Governor's Office for]~~ Technology, which adopts standards pursuant to KRS 369.118(2)(a), may encourage and promote consistency and interoperability with similar requirements adopted by other governmental agencies of this and other states and the federal government and nongovernmental persons interacting with governmental agencies of this state. If appropriate, those standards may specify differing levels of standards from which governmental agencies of this state may choose in implementing the most appropriate standard for a particular application.

Section 695. KRS 387.025 is amended to read as follows:

(1) Any interested person or entity may petition the District Court for the appointment of a guardian or limited guardian for an unmarried minor.

(2) Any interested person or entity may petition the District Court for appointment of a conservator for a minor who owns real or personal property, or both, requiring management or protection or who has or may have business interests that may be jeopardized or prevented by minority, or who needs a conservator to settle or compromise claims.

(3) The petition for appointment shall set forth the following:

(a) The name and address of the minor;

(b) The date of birth of the minor;

(c) The name and address of the minor's spouse, if any;

(d) The names and addresses of the minor's parents, or if the minor has no living parent, the names and addresses of the minor's adult next of kin;

(e) The name and address of the individual or facility having custody of the minor;

(f) The facts and reasons supporting the need for a guardianship, limited guardianship, or conservatorship for the minor;

(g) A description and approximation of the value of the minor's real and personal property and other financial resources, including government benefits, insurance entitlements, and anticipated yearly income;

(h) The name and address of the petitioner;

(i) The name and address of the petitioner's attorney, if any; and

(j) The name and address of the person or entity desiring appointment as guardian, limited guardian, or conservator.

(4) The petition shall be accompanied by a verified application of the person or entity desiring appointment as guardian, limited guardian, or conservator. The application shall set forth the following:

(a) Name, address, and age of the applicant;

(b) The applicant's relationship to the minor, if any;

(c) Whether or not the applicant has ever been convicted of a crime; and

(d) The applicant's qualifications to serve as guardian, limited guardian, or conservator.

(5) A duplicate copy of the petition and application shall be mailed by the clerk to the *commissioner*~~[secretary]~~ of the *Department of* Revenue~~[Cabinet]~~. The District Court shall appoint a time for hearing the petition and application. Notice of the time and place of the hearing shall be given not less than five (5) days prior to the hearing to the minor, if the minor is more than fourteen (14) years of age, and to each of the persons or entities required to be named in the petition. Proof of notice shall be made in accordance with the provisions of KRS 395.016. Notice may be waived as provided in KRS 395.016.

Section 696. KRS 424.260 is amended to read as follows:

(1) Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county, or district, or board or commission of a city or county, or sheriff or county clerk, may make a contract, lease, or other agreement for materials, supplies except perishable meat, fish, and vegetables, equipment, or for contractual services other than professional, involving an expenditure of more than twenty thousand dollars ($20,000) without first making newspaper advertisement for bids.

(2) If the fiscal court requires that the sheriff or county clerk advertise for bids on expenditures of less than twenty thousand dollars ($20,000), the fiscal court requirement shall prevail.

(3) (a) Nothing in this statute shall limit or restrict the ability of a local school district to acquire supplies and equipment outside of the bidding procedure if those supplies and equipment meet the specifications of the contracts awarded by the *Office*~~[Division]~~ of Material and Procurement Services *in the Office of the Controller within the Finance and Administration Cabinet* or a federal, local, or cooperative agency and are available for purchase elsewhere at a lower price. A board of education may purchase those supplies and equipment without advertising for bids if, prior to making the purchases, the board of education obtains certification from the district's finance or purchasing officer that the items to be purchased meet the standards and specifications fixed by state price contract, federal (GSA) price contract, or the bid of another school district whose bid specifications allow other districts to utilize their bids, and that the sales price is lower than that established by the various price contract agreements or available through the bid of another school district whose bid specifications would allow the district to utilize their bid.

(b) The procedures set forth in paragraph (a) of this subsection shall not be available to the district for any specific item once the bidding procedure has been initiated by an invitation to bid and a publication of specifications for that specific item has been published. In the event that all bids are rejected, the district may again avail itself of the provisions of paragraph (a) of this subsection.

(4) This requirement shall not apply in an emergency if the chief executive officer of the city, county, or district has duly certified that an emergency exists, and has filed a copy of the certificate with the chief financial officer of the city, county, or district, or if the sheriff or the county clerk has certified that an emergency exists, and has filed a copy of the certificate with the clerk of the court where his necessary office expenses are fixed pursuant to KRS 64.345 or 64.530, or if the superintendent of the board of education has duly certified that an emergency exists, and has filed a copy of the certificate with the chief state school officer.

(5) The provisions of subsection (1) of this section shall not apply for the purchase of wholesale electric power for resale to the ultimate customers of a municipal utility organized under KRS 96.550 to 96.900.

Section 697. KRS 438.335 is amended to read as follows:

The Department of Agriculture shall carry out the provisions of KRS 438.305 to 438.340 as they relate to educating the public and sellers of tobacco products about provisions and penalties of KRS 438.305 to 438.340. The Department of Agriculture shall be entitled to the revenue produced by one-twentieth of one cent ($0.0005) of the three-cent ($0.03) per pack revenue collected by the *Department of* Revenue~~[Cabinet]~~ from the state excise tax on the sale of cigarettes as imposed by KRS 138.140 and to keep fifty percent (50%) of any fines collected under KRS 438.305 to 438.340 to offset the costs of these education efforts.

Section 698. KRS 514.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deprive" means:

(a) To withhold property of another permanently or for so extended a period as to appropriate a major portion of its economic value or with intent to restore only upon payment of reward or other compensation; or

(b) To dispose of the property so as to make it unlikely that the owner will recover it.

(2) "Financial institution" means a bank, insurance company, credit union, building and loan association, savings and loan association, investment trust or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

(3) "Movable property" means property the location of which can be changed, including things growing on, affixed to, or found in land, and documents although the rights represented thereby have no physical location. "Immovable property" is all other property.

(4) "Obtain" means:

(a) In relation to property, to bring about a transfer or purported transfer from another person of a legal interest in the property, whether to the obtainer or another; or

(b) In relation to labor or service, to secure performance thereof.

(5) "Propelled vehicle" means any vehicle, including but not limited to motor vehicles, aircraft, boats, or construction machinery, which is propelled otherwise than by muscle power or which is readily capable of being towed otherwise than by muscle power.

(6) "Property" means anything of value, including real estate, tangible and intangible personal property, contract rights, documents, choses-in-action and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink.

(7) "Property of another" includes property in which any person other than the actor has an interest which the actor is not privileged to infringe, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

(8) "Receiving" means acquiring possession, control or title or lending on the security of the property.

(9) "Services" includes labor, professional service, transportation, telephone, electricity, gas, water or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions, use of vehicles or other movable property.

(10) "Tax liability" for purposes of this chapter means the amount of money by which a person understates the total amount of taxes due or collected and not remitted to the Commonwealth, or the amount he fails to pay to the state, or both. Any person whose income is subject to the withholding of income tax and from whose income taxes are withheld shall be considered, for purposes of this chapter, to have paid to the Commonwealth the sum of money withheld, whether or not such sum withheld is paid to the Commonwealth.

(11) "Tax return" means any return, declaration, report or form issued or prescribed by the *Department of* Revenue~~[Cabinet]~~ and required to be filed with the *Department of* Revenue ~~[Cabinet]~~ as prescribed by law.

Section 699. KRS 42.019 is amended to read as follows:

(1) The Division of Historic Properties established by *Section 17 of this Act*~~[KRS 42.027]~~ shall be responsible for overseeing the management and preservation of state-owned historic properties including, but not limited to, the Executive Mansion, Old Governor's Mansion, Vest Lindsey House, Berry Hill, State Capitol, and Henry Clay Law Office. In addition, the division shall be responsible for maintaining state-owned furniture, china, silver, and art works and the care, display, inventory, conservation, restoration, and storage of any state-owned item of historical significance.

(2) The Department of Parks and the Kentucky Horse Park may advise and consult the Division of Historic Properties in the operation, maintenance, restoration, conservation, and inventory of the state's shrines and museums.

(3) The director of the Division of Historic Properties shall serve as state curator pursuant to KRS 11.026. The director may employ the personnel and assemble the records and files necessary to perform the duties, responsibilities, and functions of the office.

Section 700. The following KRS section is repealed:

67A.884 Assistance agreement with Kentucky Pollution Abatement Authority.

Section 701. In order to reflect the reorganization effectuated by this Act, the reviser or statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 702. Any provision of law to the contrary notwithstanding, the General Assembly hereby confirms the portion of the Governor's Executive Order 2004-723, dated July 9, 2004, relating to the Finance and Administration Cabinet and the abolishing of the Revenue Cabinet to the extent it is not otherwise confirmed or superseded by this Act.

Approved March 16, 2005.