

CHAPTER 181**(SB 38)**

AN ACT relating to reorganization.

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

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

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

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

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

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.

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

- (a) Department of Highways.
 - 1. Office of Program Planning and Management.
 - 2. Office of Project Development.
 - 3. Office of Construction and Operations.
 - 4. Office of Intermodal Programs.
 - 5. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Fiscal Management.
 - (e) Department of Rural and Municipal Aid.
 - (f) Department of Human Resources Management.
 - (g) Office of the Secretary.
 - (h) Office of General Counsel and Legislative Affairs.
 - (i) Office of Public Affairs.
 - (j) Office of Transportation Delivery.
 - (k) Office of Minority Affairs.
 - (l) Office of Policy and Budget.
 - (m) Office of Technology.
 - (n) Office of Quality.
 - (o) Office of the Transportation Operations Center.
5. Cabinet for Economic Development:
- (a) ***Office***~~[Department]~~ of Administration and Support.
 - (b) Department for ***New*** Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department ***for Existing Business***~~[of Community]~~ Development.
 - (e) Department for Regional Development.
 - (f) Tobacco Research Board.
 - (g) Kentucky Economic Development Finance Authority.
 - (h) ***Office of Research and Information Technology.***
 - (i) ***Department of Innovation and Commercialization for a Knowledge Based Economy.***
 - (j) ***Office of Legal Services.***
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 Financial Management.
 - (b) Office of the Controller.
 - (c) Department for Administration.
 - (d) Department of Facilities Management.
 - (e) State Property and Buildings Commission.
 - (f) Kentucky Pollution Abatement Authority.
 - (g) Kentucky Savings Bond Authority.
 - (h) Deferred Compensation Systems.
 - (i) Office of Equal Employment Opportunity Contract Compliance.
 - (j) Office of Capital Plaza Operations.
 - (k) County Officials Compensation Board.
 - (l) Kentucky Employees Retirement Systems.
 - (m) Commonwealth Credit Union.
 - (n) State Investment Commission.
 - (o) Kentucky Housing Corporation.
 - (p) Governmental Services Center.
 - (q) Kentucky Local Correctional Facilities Construction Authority.
 - (r) Kentucky Turnpike Authority.
 - (s) Historic Properties Advisory Commission.
 - (t) Kentucky Tobacco Settlement Trust Corporation.
 - (u) Eastern Kentucky Exposition Center Corporation.
 - (v) State Board for Proprietary Education.
10. Labor Cabinet:
- (a) Department of Workplace Standards.
 - (b) Department of Workers' Claims.
 - (c) Kentucky Labor-Management Advisory Council.
 - (d) Occupational Safety and Health Standards Board.
 - (e) Prevailing Wage Review Board.
 - (f) Workers' Compensation Board.
 - (g) Kentucky Employees Insurance Association.
 - (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.

- (j) Kentucky Occupational Safety and Health Review Commission.
 - (k) Office of Administrative Services.
 - (l) Office of Information Technology.
 - (m) Office of Labor-Management Relations and Mediation.
 - (n) Office of General Counsel.
 - (o) Workers' Compensation Funding Commission.
 - (p) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
 - (b) Department of Tax Administration.
 - (c) Office of Financial and Administrative Services.
 - (d) Department of Law.
 - (e) Department of Information Technology.
 - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
- (a) Department of Travel.
 - (b) Department of Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (d) Kentucky Horse Park Commission.
 - (e) State Fair Board.
 - (f) Office of Administrative Services.
 - (g) Office of General Counsel.
 - (h) Tourism Development Finance Authority.
13. Cabinet for Workforce Development:
- (a) Department for Adult Education and Literacy.
 - (b) Department for Technical Education.
 - (c) Department of Vocational Rehabilitation.
 - (d) Department for the Blind.
 - (e) Department for Employment Services.
 - (f) 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.
14. Personnel Cabinet:
- (a) Office of Administrative and Legal Services.
 - (b) Department for Personnel Administration.
 - (c) Department for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Kentucky Kare.
 - (f) Division of Performance Management.
 - (g) Division of Employee Records.
 - (h) Division of Staffing Services.
 - (i) Division of Classification and Compensation.
 - (j) Division of Employee Benefits.
 - (k) Division of Communications and Recognition.
 - (l) Office of Public Employee Health Insurance.

III. Other departments headed by appointed officers:

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

Section 2. KRS 154.12-214 is amended to read as follows:

As used in KRS 154.12-215 to 154.12-220, unless the context otherwise requires:

- (1) "Council" means the Small Business Advisory Council as established in KRS 154.12-218;

- (2) "Small business" means a business entity organized for profit, including but not limited to any individual partnership, registered limited liability partnership, corporation, limited liability company, joint venture, association or cooperative, which entity:
 - (a) Is not an affiliate or subsidiary of a business dominant in its field of operation; and
 - (b) Has twenty (20) or fewer full-time employees or no more than the equivalent of one million dollars (\$1,000,000) in annual gross revenues in the preceding fiscal year;
- (3) "Clearinghouse" means the business information clearinghouse program of the ~~{division of business and entrepreneurship development in the }~~Department *for Existing Business*~~{of Community}~~ Development;
- (4) "Manager" means the administrator of the clearinghouse program;
- (5) "Master application" means the document designed by the clearinghouse for public use in supplying all information necessary for individual state agency approval for licenses the Commonwealth requires for any person subject to the provisions of KRS 154.12-215 to 154.12-220;
- (6) "Master license" means the document designed for public display issued by the clearinghouse which authorizes individual state agency approval for licenses the state requires for any person subject to the provisions of KRS 154.12-215 to 154.12-220;
- (7) "License" means any agency permit, license, certificate, approval, registration, charter, or any form of permission required by law, including agency rule, to engage in any business activity;
- (8) "Issuing agency" means any organizational unit of state government legally authorized to issue, suspend, continue in effect, revoke or enforce any license;
- (9) "Grocery store" means any retail business that derives fifty percent (50%) or more of its gross receipts from the sale of food products, beverages and common household goods except those businesses selling exclusively fully prepared foodstuffs;
- (10) "Business" means any operation required to have a sales and use tax permit pursuant to KRS Chapter 139; and
- (11) "Work team" means a group of individuals assembled to study and make recommendations on the administration of a license and shall include representation from the issuing agency, the regulated industry, and representatives that have experience in the administration of licenses, but no vested interest in the particular license that is being considered.

Section 3. KRS 154.12-215 is amended to read as follows:

- (1) The duties of the Department *for Existing Business*~~{of Community}~~ Development shall include but not be limited to:
 - (a) Collecting, summarizing, and disseminating information helpful to minority businesses, including information on:
 1. Market research;
 2. New business opportunities;
 3. Federal, state, and local minority business programs; and

4. The availability of managerial assistance programs within the state educational system;
 - (b) Assisting minority businesses with federal, state, and local government agencies, regulations, and procurement programs.
 - (c) Providing staff assistance to the council;
 - (d) Providing information on federal, state, and local small business programs and regulations;
 - (e) Making referrals to managerial assistance programs within the state educational system; and
 - (f) Introducing entrepreneurs to individual investors and to investment capital firms interested in start-up and early-stage financing.
- (2) The commissioner is designated a small business ombudsman and shall:
 - (a) Receive and refer complaints of small business to the council and the appropriate administrative bodies;
 - (b) Coordinate the activities of all administrative bodies performing functions affecting the operation of small business in the Commonwealth;
 - (c) Represent the interests of the council and small businesses in the Commonwealth before federal, state, and local administration and regulatory agencies; and
 - (d) Prepare an annual report of the activities and recommendations of the council and submit the report to the Governor and the appropriate legislative committee having jurisdiction over small business matters.

Section 4. KRS 154.12-216 is amended to read as follows:

- (1) There is established in the Division of *Small Business Services* ~~and Entrepreneurship Development~~ in the Department *for Existing Business* ~~of Community~~ Development a Business Information Clearinghouse Program.
- (2) ~~By January 1, 1985,~~ The clearinghouse shall develop and maintain a current list of all licenses arranged by the Standard Industrial Classification (SIC) developed by the United States Department of Labor or similar classification system as may be developed by the clearinghouse.
- (3) The clearinghouse shall, to the extent possible, develop and distribute informational packets for each business classification. The informational packet for each business classification shall include applications, fee schedules, and informational bulletins for the licenses most commonly required of businesses within that classification.
- (4) The clearinghouse shall provide a toll-free telephone and referral service for the entire Commonwealth to aid new and continuing businesses with the licensing process.
- (5) The clearinghouse shall maintain current information on other agencies' programs that provide business financing and management assistance and shall serve as a referral service to those programs to the staff of the Regulatory Expediting Center as established in KRS 154.12-240.
- (6) The manager shall encourage federal and local governments to participate by submitting copies of application forms for licenses applicable to businesses in the Commonwealth.

- (7) Work teams may be assembled at the request of the issuing agency, the regulated industry, the Governor, or the General Assembly. The clearinghouse and issuing agency shall coordinate the activities of and provide staff assistance to any work teams. Members of the work teams shall serve without compensation.
- (8) The clearinghouse shall prepare an annual report summarizing its work for the Governor and the General Assembly. The report shall include a list of all licenses arranged by business classification and agency, the reports of any work teams, and may include recommendations on necessary statute or regulation changes to enable agencies to simplify or consolidate regulatory activities.

Section 5. KRS 154.12-218 is amended to read as follows:

- (1) There is established a Small Business Advisory Council which shall serve in an advisory capacity to the Department *for Existing Business*~~[of Community]~~ Development.
- (2) The council shall be composed of ten (10) members who are officers or representatives of small businesses. The members of the council shall be appointed by the Governor for four (4) year terms, except that five (5) of the initial members shall be appointed for two (2) year terms. Members may be reappointed.
- (3) Members of the council shall serve without compensation, but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the council.
- (4) The council shall meet as soon as practicable after the initial ten (10) members are appointed, and thereafter shall meet at least twice a year and at the call of the director. The council shall annually elect one (1) of its members to serve as chairman.
- (5) The council shall:
 - (a) Serve as a source of expertise and information on small businesses to the department;
 - (b) Keep the department informed with respect to problems of, and matters affecting, small businesses;
 - (c) Advise the department, upon request of the department, with respect to any matters relating to small businesses.

Section 6. KRS 154.12-223 is amended to read as follows:

- (1) There is created within the Cabinet for Economic Development the Department *for Existing Business*~~[of Community]~~ Development, which shall be headed by a commissioner appointed by the Governor pursuant to KRS 12.040. The department shall work with each Kentucky county in:
 - (a) Determining a long-range plan for economic development which best meets the individual county's needs; and
 - (b) Developing cooperative interaction with existing industries and small and minority businesses and assisting export development.
- (2) The Department *for Existing Business*~~[of Community]~~ Development shall include the following divisions, each of which shall be headed by a director appointed by the secretary pursuant to KRS 12.050:
 - (a) The Division of *Small Business Services*~~[and Entrepreneurship Development]~~, which shall be responsible for procurement assistance, business information clearinghouse

services, and business and technology functions of the cabinet, including, without being limited to:

1. Providing comprehensive information on all state business licenses and requirements;
2. *Assisting businesses in the identification of government procurement opportunities*~~[Developing and administering a master application and licensure program for grocery stores]; and~~
- 3.~~[Coordinating and monitoring the various activities being carried out by state agencies that relate to adapting advanced technologies to the workplace; and~~
- 4.~~[Reviewing and analyzing the possibility of establishing research and technology centers in the Commonwealth;~~

~~(b)~~ The Small and Minority Business *Branch, within the Division of Small Business Services*,~~[which]~~ shall be responsible for the cabinet's functions relating to small and minority business enterprise, as provided in KRS 154.12-215. The Small Business Advisory Council established by KRS 154.12-218 shall advise the *branch*~~[division]~~;

~~(b)~~~~(e)~~ The Western Kentucky Economic Development Division;

~~(c)~~~~(d)~~ The Eastern Kentucky Economic Development Division;

~~(d)~~~~(e)~~ The Central Kentucky Economic Development Division; and

~~(e)~~~~(f)~~ The International Trade Division, which shall promote the development of international markets for Kentucky goods, products, and services for the purpose of identifying and analyzing national and international market developments and opportunities, and gathering and disseminating vital information to Kentucky manufacturers, service providers, and other industries regarding international trade opportunities.

(3) The following programs and commission shall be attached to the Department *for Existing Business*~~[of Community]~~ Development:

(a) The Kentucky port and river development program created by KRS 65.510 to 65.530, KRS 139.483, and KRS 154.80-100 to 154.80-130;

(b) The Waterway Marina Development Program established by KRS 154.80-310; and

(c) The Kentucky Investment Capital Network established by KRS 154.12-2333.

Section 7. KRS 154.12-2333 is amended to read as follows:

(1) There is established within the Department *for Existing Business*~~[of Community]~~ Development the Kentucky Investment Capital Network.

(2) The purpose of the Kentucky Investment Capital Network is to introduce entrepreneurs to profit and nonprofit investors interested in start-up and early-stage financing.

(3) The Kentucky Investment Capital Network shall, to the extent possible:

(a) Maintain a data base of investment-opportunities profiles submitted by entrepreneurs and investment-interest profiles submitted by investors;

- (b) Make available its services to the general public, including the use of on-line Internet electronic communication;
 - (c) Distribute investor and entrepreneur applications in paper form and through electronic resources;
 - (d) Serve as a screening mechanism through which introductions can be made between businesses and potential investors;
 - (e) Aid prospective companies in presenting their ventures to investors if aid is requested; and
 - (f) Emphasize entrepreneurs whose ventures will create employment opportunities in small and rural communities where job development is greatly needed.
- (4) The Kentucky Investment Capital Network shall submit an annual report to the Governor and the General Assembly detailing its work, including, but not limited to, the total number of entrepreneurs and investors registered, the number of new entrepreneur and investor registrants for the year, the number of successful matches during the year, and the amount of start-up and early-stage financing made available to entrepreneurs during the year.

Section 8. KRS 154.12-222 is amended to read as follows:

- (1) There is created within the Cabinet for Economic Development the *Office*~~[Department]~~ of Administration and Support, *to be attached to the Office of the Secretary*~~[-The department shall be headed by a commissioner appointed by the Governor pursuant to KRS 12.040. The department shall provide cabinet wide support in fiscal management, information resources, personnel support, budgetary implementation and control, and research development].~~
- (2) The *Office*~~[Department]~~ of Administration and Support shall include *a Division of Finance and Personnel with two (2) branches*:
 - (a) The *Fiscal Management Branch*~~[Office of Information Resources to be headed by an executive director appointed in accordance with KRS 12.050];~~ and
 - (b) The *Personnel and Payroll Branch*~~[following divisions, each of which shall be headed by a director appointed by the secretary pursuant to KRS 12.050:~~
 - 1. ~~The Division of Administrative Services, which shall be responsible for fiscal management, personnel, and payroll functions; and~~
 - 2. ~~The Division of Research, which shall be responsible for general research, economic development library, map sales, and community brochures activities].~~

Section 9. KRS 154.12-225 is amended to read as follows:

- (1) There is created within the Cabinet for Economic Development the Department for *New Business Development*. The department shall be headed by a commissioner appointed by the Governor pursuant to KRS 12.040. The department shall coordinate the recruitment of industries that will enhance the overall viability of Kentucky's economy.
- (2) The Department for *New Business Development* shall include the *Industrial Development Division*~~[following divisions], [each of]~~ which shall be headed by a director appointed by the secretary pursuant to KRS 12.050~~[-~~:
 - (a) ~~The Industrial Development Division; and~~
 - (b) ~~The Site Evaluation Division].~~

- (3) Kentucky's representative development offices located in other states and countries shall be assigned to the Department for *New* Business Development.

Section 10. KRS 154.12-278 is amended to read as follows:

- (1) As used in this section, "cluster" and "knowledge-based" shall have the same meaning as in KRS 164.6011.
- (2) There is established the *Department of Innovation and Commercialization for a Knowledge Based*~~[Office for the New]~~ Economy in the Cabinet for Economic Development. *The department shall be headed by a commissioner appointed by the Governor under KRS 12.040.*~~[Notwithstanding KRS 154.10-050, the Governor shall nominate the commissioner of the Office for the New Economy, who shall be approved by the Kentucky Economic Development Partnership.]~~
- (3) The duties of the *Department of Innovation and Commercialization for a Knowledge Based*~~[Office for the New]~~ Economy shall include but not be limited to:
- (a) Implement the Kentucky Innovation and Commercialization Center Program as set forth in KRS 154.12-300 to 154.12-315;
 - (b) Monitor the return on investments and effectiveness of the Kentucky Innovation Act initiatives as set forth in the Strategic Plan for the New Economy as approved by the Kentucky Innovation Commission, January 7, 2002, or as revised, and report annually prior to November 1 to the Kentucky Innovation Commission, the Governor, and the General Assembly;
 - (c) Oversee the modernization initiative in KRS 154.12-274;
 - (d) Assist the cabinet in the recruitment of research and development companies;
 - (e) Assist the cabinet in the attraction of high-technology research and development centers;
 - (f) Support growth and creation of knowledge-based, innovative companies;
 - (g) Build the infrastructure for the new economy businesses and promote networks of technology-driven clusters and research intensive industries;
 - (h) Administer the high-tech construction pool and the high-tech investment pool;
 - (i) Recommend projects to the Kentucky Economic Development Finance Authority for funding through the high-tech construction pool and high-tech investment pool; and
 - (j) Review and approve the annual plan which details the annual allocation of funds from the Science and Technology Funding Program, prior to the Council on Postsecondary Education executing a contract with the science and technology organization to administer science and technology funding programs. As used in this paragraph, the Science and Technology Funding Program means the Kentucky Rural Innovation Program, the Kentucky Research and Development Voucher Program, the Kentucky Commercialization Program, The Regional Technology Corporations/Innovation and Commercialization Center Satellites, and the Experimental Program to Stimulate Competitive Research/Kentucky Science and Engineering Foundation.
- (4) The high-tech construction pool shall be used for projects with a special emphasis on the creation of high-technology jobs and knowledge-based companies. The commissioner, in administering the high-tech construction pool, shall recommend distribution of funds and

projects to the Kentucky Economic Development Finance Authority for its approval. The commissioner shall recommend any designated amount of pool funds to be set aside for any match requirements. Any funds used for matching purposes may include public and private funds.

- (5) The high-tech investment pool shall be used to build and promote technology-driven industries and research-intensive industries, as well as their related suppliers, with the goal of creating clusters of innovation-driven industries in Kentucky. The commissioner, in administering the high-tech investment pool, shall be authorized to recommend funds to be used to support loans and grants, or to secure an equity or related position.
- (6) The Kentucky Economic Development Finance Authority shall assure in their approval of funding of projects that the highest priority is given to knowledge-based companies in fulfillment of the purposes and intentions of the purposes of this section.

Section 11. KRS 154.12-300 is amended to read as follows:

As used in KRS 154.12-300 to 154.12-315, unless the context indicates otherwise:

- (1) "Affiliate" means an ICC identified as the headquarters for program activity in a region or subregion;
- (2) "Commissioner" means the commissioner of the *Department of Innovation and Commercialization for a Knowledge Based*~~[Office for the New]~~ Economy established in KRS 154.12-278;
- (3) "ICC" means the Kentucky Innovation and Commercialization Center;
- (4) "Region" means a geographic area of Kentucky designated as having a unique innovation strategic plan by the *Department of Innovation and Commercialization for a Knowledge Based*~~[Office for the New]~~ Economy; and
- (5) "Satellite" means an office of an affiliate in a region.

Section 12. KRS 154.12-305 is amended to read as follows:

- (1) There is established the Kentucky Innovation and Commercialization Center Program within the *Department of Innovation and Commercialization for a Knowledge Based*~~[Office for the New]~~ Economy. The goal of the ICC program is to create products, new companies, and value-added jobs in communities throughout the Commonwealth. Strategies to achieve this goal include:
 - (a) Increasing quality deal flow of technology-based firms in Kentucky;
 - (b) Increasing understanding of start-up process and investment practices; and
 - (c) Providing value-added services to the start-up and investment community.
- (2) The duties of the ICC program shall include but not be limited to:
 - (a) Identifying and linking entrepreneurs, faculty, scientists, venture capitalists, and other key individuals from the business sector, universities, community and technical colleges, local leaders, and government for the creation and expansion of knowledge-based companies;
 - (b) Establishing a uniform protocol for assembling and communicating project concepts and opportunities;

- (c) Supporting high-quality projects through the concept and development phases including services such as market research, prototype development, business plan and strategies development, grant and contract capabilities, and capital and management resource identification; and
- (d) Identifying, in the area of technology development, potential partners, strategic opportunities, training and educational needs, and issues that inhibit the growth of technology sectors and business clusters in the state.

Section 13. KRS 154.20-254 is amended to read as follows:

As used in KRS 154.20-250 to 154.20-284, unless the context clearly requires otherwise:

- (1) "Affiliate" means any person or entity who directly or indirectly, through one (1) or more intermediaries, controls or is controlled by or is under common control with another person or entity;
- (2) "Agreement" means an investment fund agreement entered into pursuant to KRS 154.20-255(5) by the authority and an investment fund manager on behalf of the investment fund, the investment fund manager, and any investor in the investment fund;
- (3) "Amended application" means a document submitted by an investment fund manager, in a form acceptable to the authority and on behalf of an investment fund, for the purpose of increasing the aggregate amount of available tax credits;
- (4) "Applicant" means any person or entity who has not received approval from the authority as an investment fund manager, but who has submitted or will submit an application to the authority for approval as an investment fund manager;
- (5) "Authority" means the Kentucky Economic Development Finance Authority or its designee;
- (6) "Cash contribution" means an investment of money by an investor in an investment fund under the terms of KRS 154.20-250 to 154.20-284;
- (7) "Committed cash contribution" means a legally binding agreement by an investor to make a cash contribution in an amount set forth in a written agreement between an investor and an investment fund;
- (8) "Commonwealth" means the Commonwealth of Kentucky;
- (9) "Credit" means a nonrefundable credit for investors against state tax liability allocated and granted by the authority pursuant to KRS 154.20-258 for qualified investments made by approved investment funds;
- (10) "Entity" means any corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;
- (11) "Financial institution" means "financial institution" as defined in KRS 136.500(10) and includes savings and loan associations, savings banks, and similar institutions subject to the taxes imposed by KRS 136.290, 136.300, or 136.310;
- (12) "Insurance company" means any insurance company subject to the taxes imposed by KRS 136.320, 136.330, or 304.3-270;

- (13) "Investment fund" means any entity that is organized by an investment fund manager in compliance with applicable state and federal securities laws and regulations, and is approved by the authority to make qualified investments pursuant to KRS 154.20-256;
- (14) "Investment fund manager" means any person or entity that has been approved by the authority to manage one (1) or more investment funds authorized under the provisions of KRS 154.20-250 to 154.20-284 and is in compliance with all applicable federal and state regulations;
- (15) "Investor" means any person or entity, including financial institutions and insurance companies, that is subject to state tax liability and that makes a cash contribution or a committed cash contribution to an investment fund in accordance with the provisions of KRS 154.20-250 to 154.20-284 and has not been convicted of violating any of Kentucky's tax laws within the past ten (10) years;
- (16) "Nonprofit entity" means an investor that is exempt from federal income tax under Section 501(c) of the Internal Revenue Code of 1986, as amended;
- (17) "Qualified activity" means any industrial, manufacturing, mining, mining reclamation for economic development, commercial, health care, agricultural enterprise, or agribusiness activity. A "qualified activity" does not include any activity principally engaged in by financial institutions, commercial development companies, credit companies, financial or investment advisors, brokerage or financial firms, other investment funds or investment fund managers, charitable and religious institutions, oil and gas exploration companies, insurance companies, residential housing developers, retail establishments, or any activity that the authority determines in its discretion to be against the public interest, against the purposes of KRS 154.20-250 to 154.20-284, or in violation of any law;
- (18) "Qualified investment" means an investment of money in a small business by an investment fund, in compliance with applicable state and federal securities laws and regulations, seeking a financial return based upon that consideration. In consideration for the qualified investment, the investment fund shall receive an equity interest in the small business, such as a general or limited partnership interest, common or preferred stock with or without voting rights and without regard to seniority position, forms of subordinate or convertible unsecured debt, or both, with warrants, rights, or other means of equity conversion attached; and
- (19) "Small business" means any entity which at the time a qualified investment is made by an investment fund:
- (a) 1. Has a net worth of five million dollars (\$5,000,000) or less or net income after federal income taxes for each of the two (2) preceding fiscal years of three million dollars (\$3,000,000) or less; or
 2. Is a knowledge-based business, as shall be prescribed by the commissioner of the ***Department of Innovation and Commercialization for a Knowledge Based*** ~~Office for the New~~ Economy, and has a net worth of ten million dollars (\$10,000,000) or less;
 - (b) Is actively and principally engaged in a qualified activity within the Commonwealth, or will be actively and principally engaged in a qualified activity within the Commonwealth after the receipt of a qualified investment by an investment fund;
 - (c) Has no more than one hundred (100) employees; and

- (d) Has more than fifty percent (50%) of its assets, operations, and employees located in Kentucky.

Section 14. KRS 164.6015 is amended to read as follows:

- (1) There is established the Kentucky Innovation Commission, as an independent advisory commission, consisting of fifteen (15) members as follows:
 - (a) The Governor or designee;
 - (b) The secretary of the Governor's Executive Cabinet or designee;
 - (c) The secretary of the Cabinet for Economic Development or designee;
 - (d) The president of the Council on Postsecondary Education or designee;
 - (e) The state budget director or designee;
 - (f) The Speaker of the House or designee;
 - (g) The President of the Senate or designee; and
 - (h) Eight (8) at-large members appointed by the Governor as follows:
 - 1. Four (4) members of the private sector possessing extensive experience and expertise relating to managing a high-technology business or engaging in an innovation-driven, knowledge-based enterprise;
 - 2. One (1) member engaged in the business of venture capital;
 - 3. One (1) member of the private sector possessing extensive experience and expertise relating to providing or supporting communications infrastructure; and
 - 4. Two (2) members who are engineers or scientists recognized for their scientific or technological research efforts, or educators with an interest or background in teaching students to become highly skilled workers or entrepreneurs.
- (2) The eight (8) at-large members shall serve terms of four (4) years, except that the original appointments shall be staggered so that two (2) appointments shall expire at two (2) years, three (3) appointments shall expire at three (3) years, and three (3) appointments shall expire at four (4) years from the dates of initial appointment.
- (3) The commission shall meet quarterly and at other times upon call by the chair.
- (4) Eight (8) members shall constitute a quorum for conducting business.
- (5) Members shall receive no compensation except that the at-large members shall be reimbursed for actual and necessary travel expenses for attending meetings and performing other official functions, consistent with state reimbursement policy for state employees.
- (6) Vacancies shall be filled in the same manner as the original appointment.
- (7) The chair and vice chair of the commission shall be appointed by the Governor.
- (8) The commission shall provide ongoing advice, direction, and policy recommendations to the Governor and the General Assembly relating to the status of Kentucky knowledge-driven businesses, research and development initiatives, and related high-skill training and education in the Commonwealth.
- (9) The duties and responsibilities of the commission shall be to:

- (a) Promote the cooperation of private and public entities that have the purpose and duty of advancing the knowledge-based economy in the Commonwealth through technological innovation and knowledge transfer;
- (b) Report on the progress the Commonwealth has made annually toward achieving the goals in KRS 164.6013 through its agreed-upon benchmarks. In the setting of benchmarks the commission shall consider performance indicators recommended by public and private experts in and outside of the state in the fields of research and development and economic development, for the purpose of recommending benchmarks. Experts in this state shall include but not be limited to representatives from the universities undertaking research and development activities, representatives of the Kentucky Science and Technology Corporation, representatives of targeted technology sectors, representatives of the Cabinet for Economic Development, and representatives of other state agencies having economic development and information technology responsibilities. Outside state experts shall include nationally recognized independent reviewers to assess the competitiveness of technology sectors in this state and the impact of research and development activities on economic development in the Commonwealth. Quantitative and qualitative indicators may include but are not limited to the following:
 - 1. Kentucky companies modernizing to become more technologically innovative and globally competitive;
 - 2. Research and development initiatives undertaken at Kentucky universities with federal, state, or private funds;
 - 3. Educational attainment in areas that support the workforce needs of information technology and high-growth knowledge industries;
 - 4. High-technology sectors and companies moving to and operating in the state;
 - 5. Patents filed for technology or knowledge-based commercial products, processes, or services;
 - 6. Businesses using electronic commerce and the communications infrastructure access capacity for Kentucky businesses;
 - 7. Growth in corporate headquarters, research and development centers, high-income employees, and clustering of related technology industries and suppliers; and
 - 8. Monitoring reports indicating progress made by the Kentucky Innovation Act investments as reported by the *Department of Innovation and Commercialization for a Knowledge Based* ~~Office for the New~~ Economy and the Council on Postsecondary Education;
- (c) Operate as a common strategic umbrella to advocate for the use of federal, state, local government, and private sector funds to create research and development projects, modernize manufacturing facilities, and promote knowledge-based, technology sectors and companies in the Commonwealth; and
- (d) Report to the Governor and to the General Assembly annually on performance indicators, recommending benchmarks for measuring progress toward the advancement of the knowledge-based economy, technological innovation, and

knowledge transfer, and reporting on the programs and initiatives set forth in KRS 164.6019 to 164.6041, 154.12-274, 154.12-278, and KRS 154.12-300 to 154.12-315.

- (10) The support staff for the commission shall be from the office of the state budget director.

Section 15. KRS 164.6017 is amended to read as follows:

- (1) The Council on Postsecondary Education shall have all the powers and authority, not explicitly prohibited by statute, necessary and convenient to carry out and effectuate the purposes of KRS 164.6019 to 164.6041, including but not limited to:
- (a) Entering into contracts or agreements necessary or incidental to the performance of its duties, functions, and responsibilities; and
 - (b) Soliciting, borrowing, accepting, receiving, and expending funds from any public or private source, including but not limited to general fund appropriations of the Commonwealth, grants or contributions of money, property, labor, or other things of value to be used to carry out the programs' operations, functions, and responsibilities; and
 - (c) Notwithstanding the provisions in paragraph (a) of this subsection, the commissioner of the *Department of Innovation and Commercialization for a Knowledge Based*~~[Office for the New]~~ Economy shall approve the contracts issued by the Council on Postsecondary Education regarding the structure of programs and funding levels in those programs administered by a science and technology organization and created in KRS 154.12-320, 164.6021, 164.6029, and 164.6037.
- (2) The council may expend money in the funds created in KRS 164.6019, 164.6027, and 164.6035 for reasonable administrative expenses directly incurred in carrying out the requirements of KRS 164.6019 to 164.6041. It is the intent of the General Assembly that the funds created in KRS 164.6019, 164.6027, and 164.6035 be used, to the fullest extent possible, to directly fund project costs. It is also the intent of the General Assembly that the first priority of expenditures of any excess revenues generated from the funds created in KRS 164.6019, 164.6027, and 164.6035 is to replenish general fund appropriations for those same purposes.
- (3) The council shall contract with a science and technology organization to administer the programs created in KRS 164.6021, 164.6029, and 164.6037. The council shall approve the application criteria, the process for submission of an application, and the structure and type of outside expertise or peer review used in the application review process in the programs created in KRS 164.6021, 164.6029, and 164.6037.
- (4) No member of the council or the science and technology organization or other administering entity, or their employees or outside experts or their immediate family members, shall directly or indirectly financially benefit in any award, contract, or agreement under the programs.
- (5) The council shall submit an annual report prior to October 15 to the Kentucky Innovation Commission, the Governor, and the General Assembly detailing its work related to the programs created in KRS 164.6021, 164.6029, and 164.6037. The annual report shall be coordinated with the monitoring report by the *Department of Innovation and Commercialization for a Knowledge Based*~~[Office for the New]~~ Economy indicating progress made through investments, and shall include but not be limited to reporting on the progress made in achieving each program's purposes, qualitative and quantitative

information concerning the applications received, projects approved and undertaken, companies served, and funding amounts invested in each project or program, as appropriate, and findings and recommendations to increase each program's effectiveness in achieving its purposes.

- (6) All records related to the administration of the programs created in KRS 164.6021, 164.6029, and 164.6037 shall be deemed property of the council and shall be deemed open records and subject to public inspection under KRS 61.870 to 61.884. Any research that involves or is a patent, trade secret, or other legally protectable interest shall be exempt from inspection until such time as the intellectual property rights have been fully protected.

Section 16. In order to reflect the reorganization effectuated by this Act, the reviser of 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 17. The General Assembly confirms Resolution 04-01 of the Kentucky Economic Development Partnership, relating to a general reorganization, to the extent that it is not otherwise confirmed or superseded by this Act, this Resolution having been made by the Kentucky Economic Development Partnership under the authority granted to it by KRS 12.028 and 154.10-030.

Approved March 31, 2005.